



CLEVELAND HEIGHTS

Council Committee of the Whole

September 19, 2022

6:00 p.m.

City Hall – Executive Conference Room

Agenda

1. Discussion on Lead Safety Legislation—**ORD 78-2021 (PSH)**
2. Discussion on GAP Legislation—**ORD 96-2022 (PD)**
3. Discussion of proposed legislation to mandate landlords of multi-use residential buildings/commercial properties to provide recycling services
4. Legislation Review/Caucus
5. Executive Session
 - a. *To discuss with an attorney for the public body, claims or disputes involving the public body that in the judgment of such attorney appear likely to be the subject of a future court action or claim.*
6. Adjournment

9.08.200: MULTI-FAMILY AND NONRESIDENTIAL SOLID WASTE AND RECYCLING SERVICES:

A. Generator:

1. Any generator that generates an average of four (4) or more cubic yards of solid waste or recyclable items per week shall:
 - a. (1) Subscribe to recycling service or green waste service with an authorized hauler capable of diverting fifty percent (50%) of the solid waste and recyclable items generated, by volume, and use an authorized hauler to provide solid waste and recycling collection service; or
 - (2) Complete and retain on site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this chapter or any other applicable law or regulation. A copy of such form shall be available to the director of sustainability or designee upon request.
 - b. Designate area(s) for recycling container(s) accessible by an authorized hauler.
 - c. Designate areas and provide recycling containers for use by occupants, employees or residents that are as convenient to use as refuse containers.
 - d. Prominently post and maintain one or more signs in maintenance or work areas or common areas where recyclable items are collected or stored that specify the materials to be source separated and the collection procedures for such materials.
 - e. Distribute recycling information to each person occupying, attending, or working on the property within fourteen (14) days after commencement of recycling service and annually thereafter.
 - f. Ensure that all recyclable items are placed for collection in covered collection containers conforming to the requirements in section 9.08.080 of this chapter.
 - g. Ensure that recyclable items generated and separated at the generator's site for collection will be taken only to a recycling facility that recycles fifty percent (50%) or more of incoming material, by weight, or make other arrangements to ensure that fifty percent (50%) or more of recyclable items generated on site, by weight, are recycled and not delivered to a landfill for disposal. Generator shall not dispose of, or arrange for disposal of, recyclable items by placement in a landfill except in an emergency situation.
 - h. Ensure that the waste and recycling service agreements and a recycling plan are available for inspection by the director of sustainability or designee, at the principal location of the generator's business, facility, special event or nonresidential property, as applicable, during normal business hours. The recycling plan shall include: names of all waste and recycling service providers; frequency of services; waste disposal and recycling facilities used; location, types, and sizes of waste and recycling containers; methods used to promote recycling, including labels, signs and other educational materials.
2. An authorized hauler shall not be held liable for the failure of its customers to comply with such regulations, unless specified in the contract or permit issued by the city.

B. Authorized Hauler:

1. Only authorized haulers may provide waste hauling services within the boundaries of the city.
2. Authorized haulers shall offer collection service sufficient to accommodate the quantity and types of recyclable items to all of their customers that generate an average of four (4) or more cubic yards of waste per week.
3. An authorized hauler shall pay the city an annual registration fee as outlined in the consolidated fee schedule.
4. Authorized haulers shall deliver recyclable items to a recycling facility that recycles more than fifty percent (50%), by weight, of incoming material.
5. Authorized haulers shall not take a customer's recyclable items that have been separated for collection to a landfill or other site for disposal.
6. An authorized hauler may assess a contamination fee if contamination of a recycling container exceeds twenty five percent (25%).
7. An authorized hauler shall maintain a copy of a service agreement or receipts documenting that the generator's recyclable items have been properly delivered, as well as any documentation evidencing any event of force majeure that prevented the proper delivery of recyclable items. Such documents shall be available for inspection by the director of sustainability or designee at the authorized hauler's place of business during normal business hours and be maintained for not less than three (3) years.

An authorized hauler shall report to the director of sustainability or designee recycling, refuse, and green waste activity as described in subsection I of this section.

C. Recycling Services:

1. Recycling services provided by an authorized hauler shall include, at a minimum, all of the following:
 - a. Collection of recyclable items at least two (2) times per month, or more as specified by contract, license or permit;
 - b. Providing containers or collection methods for trash and recyclable items that comply with Salt Lake County health regulations;
 - c. Providing appropriate signage on all containers that allows users to clearly and easily identify which containers to use for recyclables or trash.
- D. Exemptions: The following shall be exempt from the requirements of this section:

1. Any governmental entity other than Salt Lake City, or any employee thereof, when collecting or transporting recyclable items produced by operation of that entity.

2. Any governmental entity other than Salt Lake City using its own vehicles and employees when engaged in the collection, transportation, or disposal of recyclable items within the boundaries of Salt Lake City.

3. Businesses, buildings, or entities that generate less than four (4) cubic yards of solid waste and recyclable items per week. This exemption does not apply to special events unless the generator demonstrates to the director of sustainability or designee that the special event will produce less than the threshold amount.

4. A generator who demonstrates to the director of sustainability or designee that less than two (2) cubic yards of recyclable items are being generated per week by any activities in the generator's multi-family or nonresidential property.

5. A property for which it is determined, through a site visit requested by the generator, that either:

a. There is inadequate storage space for a recycling container on the property and that it is infeasible for the generator to share a container for source separated recyclable items with a generator on an adjoining property, or

b. Compliance with this chapter will result in a violation of zoning codes.

6. A property that provides low income housing, including tax credit housing, section 8 vouchers, or subsidized housing.

E. Exemption Application: If the generator seeks an exemption, the generator shall submit an application for such exemption on a form prescribed by the director of sustainability. After reviewing the exemption request, and after an on site review, if applicable, the director of sustainability or designee shall either approve or disapprove the exemption request.

F. Sale Or Donation: Nothing in this chapter shall preclude any generator from selling or exchanging, at fair market value, for reuse or recycling, source separated recyclable items generated from that generator; or from donating to another entity for reuse or recycling, source separated recyclable items generated by that generator.

G. Special Event Recycling:

1. For a special event, in addition to any other conditions the city requires as part of the special event permit, the generator shall provide containers for recycling throughout the special event location to make source separation of recyclable items and refuse convenient for the attendees of the special event and the employees, volunteers, contractors, and customers of the food vendors.

2. The capacity of containers for recycling shall be more than or equal to the capacity of containers for refuse. The containers for recycling and refuse shall be placed adjacent to each other throughout the special event location in order to provide equally convenient access to users.

3. All of the containers shall have appropriate signage and identify the type of items to be deposited.

4. The generator shall ensure that the recyclable items deposited into the containers for recycling are delivered to a recycling facility and not delivered to a landfill for disposal.

H. Ownership And Scavenging Of Discarded Materials: All materials placed in any container provided by any authorized hauler shall be considered owned by and be the responsibility of either the generator or the authorized hauler. Without permission of either the generator or the authorized hauler, no person shall collect materials placed in such containers.

I. Reporting: Authorized haulers shall provide quarterly reports on the dates described below to the director of sustainability or designee identifying, at a minimum, the following information:

1. The total volume and tons of recyclable items delivered to recycling facilities during the previous quarter, the names of the recycling facilities, and the percent of total material received by the recycling facilities reported to be diverted from a solid waste landfill or incinerator.

2. The total volume and tons of green waste material delivered to compost facilities during the previous quarter, the names of the compost facilities, and the percent of total material received by the compost facilities which was reported to be diverted from a solid waste landfill or incinerator.

3. The total volume and tons of nonrecyclable items disposed of during the previous quarter and the names of facilities used.

4. Percent of accounts within Salt Lake City that subscribe to an average of four (4) or more cubic yards of refuse, solid waste, green waste, and recyclable service per week.

5. Percent of total accounts within Salt Lake City that subscribe to green waste or recycling services.

6. Information about noncompliance by generators, including contamination fees assessed to any customer, and the date and amount of material disposed of as refuse as a result of contamination.

7. The quarterly reporting periods shall be as follows:

Reporting Period	Due Date
January 1 - March 31	May 1
April 1 - June 30	August 1
July 1 - September 30	November 1
October 1 - December 31	February 1

8. The authorized hauler's failure to file the reports required by this section shall, at the option of the department of sustainability, constitute cause for termination or suspension of the hauler's permit status.

9. Upon request, the authorized hauler shall provide to the director of sustainability or designee a list of names and addresses of customers and services provided and any additional information required by the director of sustainability to determine compliance with this chapter and to calculate waste diversion data for Salt Lake City.

J. Effective Date: Within six (6) months after the effective date hereof, any hauler desiring to collect waste within Salt Lake City boundaries shall apply to become an authorized hauler. Within two (2) years after the effective date hereof, all generators shall comply. (Ord. 49-16, 2016: Ord. 72-15, 2015)



City of Chicago



SO2016-4792

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 6/22/2016

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Amendment of Municipal Code Titles 4 and 11 regarding residential recycling

Committee(s) Assignment: Committee on Health and Environmental Protection

S U B S T I T U T E

ORDINANCE

WHEREAS, The City of Chicago is a home rule unit of government as defined in Article VII, §6(a) of the Illinois Constitution, and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, Disposing of municipal waste in a safe, cost-effective and environmentally sound manner is a matter pertaining to the government and affairs of the City of Chicago; and

WHEREAS, After due investigation and consideration, the City Council of the City of Chicago has determined in findings set forth in Section 11-4-1820 of the Municipal Code of Chicago that “recycling [is] a key part of a comprehensive solid waste management plan” and “is in the best interest of the citizens of the City of Chicago;” and

WHEREAS, It is and remains the policy of the City of Chicago to promote programs to reduce the amount of waste generated at the source; to recover materials, for the purpose of recycling, that would otherwise be discarded; and to return such recovered materials to the economic mainstream as raw material for use in new, reused or reconstituted products meeting the quality standards of the marketplace; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Title 11 of the Municipal Code of the City of Chicago is hereby amended by repealing the existing Chapter 11-5 and by inserting in its place a new Chapter 11-5, as follows:

ARTICLE I. TITLE AND DEFINITIONS

11-5-010 Title.

This chapter shall be known and may be cited as the “Chicago Recycling Ordinance”. Effective January 1, 2017, source-separated recycling shall be deemed to be the method of recycling used in the City of Chicago. Source-separated recycling requires all persons citywide to place recyclable material in designated recycling containers and to keep recyclable material separate from waste until such time that the recyclable material is collected for delivery to a properly permitted facility.

11-5-020 Definitions.

As used in this chapter, unless the context requires otherwise, the following terms shall have the meanings set forth in this section:

“Backhauler” means the owner of any facility from which backhauled recyclable material is transported.

“Backhauled” or “backhauling” or “backhaul” means the process of using a truck: (1) to deliver to the local branch of a company, from such company’s warehouse, distribution center or similar facility, any food, merchandise, goods or other material that is temporarily packaged, for purposes of such delivery, in recyclable material; and (2) after delivery, to return such recyclable material to the company’s warehouse, distribution center or similar facility for reuse or recycling.

“Building” has the meaning ascribed to the term in Section 13-4-010.

“City” means the City of Chicago.

“City inspector” means any person under the employ of, or authorized by, any city department to inspect any building, property or premises for compliance with the requirements of the Municipal Code of Chicago.

“Collection” or “collected” means recovered by a hauler.

“Commissioner” means the Commissioner of Streets and Sanitation unless otherwise specified herein.

“Common area(s)” means those common areas of the premises where recyclable material is (1) routinely generated by the persons occupying, using, visiting or lawfully upon the premises, or (2) kept prior to removal to a location for collection by a private or public hauler.

“Construction and demolition debris” has the meaning ascribed to the term in Section 11-4-120.

“Department” means the Department of Streets and Sanitation unless otherwise specified herein.

“Dwelling unit” has the meaning ascribed to the term in Section 13-4-010.

“Existing building” has the meaning ascribed to the term in Section 13-4-010.

“Landscape waste” means grass or shrubbery cuttings, leaves, tree limbs or other materials accumulated as a result of the care of lawns, shrubbery, vines or trees, and includes any discarded fruits, vegetables or other vegetative material generated in the care of a garden.

“Low-density residential building” means a single family home or any residential building, as defined herein, that contains four or fewer dwelling units.

“Maintenance area(s)” means any area of the premises where waste is collected for recovery by a hauler.

“Occupational unit” has the meaning ascribed to the term in Section 7-28-200.

“Owner” has the meaning ascribed to the term in Section 13-4-010 and shall include, but is not limited to, the owner’s duly authorized agent.

“Private hauler” means any person that holds or is required to hold a private scavenger license under Section 4-6-130.

“Prohibited material” means any material listed in subsection (b) of Section 11-5-080 as modified by, or added to, in duly promulgated rules issued under Section 11-5-340.

“Public hauler” means the Department of Streets and Sanitation of the City of Chicago.

“Recyclable material(s)” means any material listed in subsection (a) of Section 11-5-080, as modified by, or added to, in duly promulgated rules issued under Section 11-5-340.

“Recycling container(s)” means any automatic lift container, bin, roll-off container or other storage container provided for use in placing and storing recyclable material pending collection of the recyclable material.

“Recycling facility” has the meaning ascribed to the term in Section 11-4-120.

“Refuse collection customer” means any person that: (1) enters into or is required to enter into a contract with a private hauler for the provision by such private hauler of waste collection services or recycling collection services or both to a building; or (2) owns or leases any building or occupational unit within a building that is serviced by a public hauler.

“Residential building” means any building or space that is primarily designed or used, as determined by the Commissioner, for dwelling by persons in a dwelling unit, including, but not limited to, apartment buildings, cooperative buildings, condominium buildings, hotels, dormitories and similar occupancies.

“Scavenger service” means waste or recyclable material collection service provided by a private hauler holding a valid private scavenger license under Section 4-6-130.

“Single stream recycling” means a type of source-separated recycling in which all recyclable material, regardless of type, can be placed in the same recycling container.

“Source-separated recycling” means a process that: (1) separates recyclable material from waste, before the point of collection of such material, by requiring that recyclable material be placed in designated recycling containers, and (2) keeps recyclable material separate from waste until the recyclable material can be returned to the economic mainstream as new, used or reconstituted products.

“Source-separated recycling services” means the collection, by a private hauler, of all of the recyclable material listed in Section 11-5-080, as modified by, or added to, in duly promulgated rules issued under Section 11-5-340.

“Tenant” means any person entitled by written or oral agreement, or by subtenancy approved by the landlord, or by sufferance to occupy a space within a building to the exclusion of others.

“Waste” means any discarded or abandoned material in solid, semisolid, liquid or contained gaseous form, including, but not limited to, industrial process waste, hazardous waste, municipal waste, special waste, garbage, or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility. For purposes of this definition: The term “waste” includes, but is not limited to, any prohibited material listed in subsection (b) of Section 11-5-080, as modified by, or added to, in duly promulgated rules issued under Section 11-5-340. The term “waste” excludes: (1) sewage collected and treated in a municipal or regional sewage system; and (2) recyclable material as defined herein.

ARTICLE II. SOURCE-SEPARATED RECYCLING: GENERAL REQUIREMENTS

11-5-030 Contract with a private hauler – When required – Exemptions.

(a) *Duty.* Except as otherwise provided in subsections (b) or (c) of this section, the following persons shall contract with a private hauler, or cause a contract to be entered into with a private hauler, for the provision of source-separated recycling services as defined in Section 11-5-020: (1) any building owner that is required to provide or contract to maintain commercial refuse containers and scavenger service under Section 7-28-220 or compactors and collection service under Section 7-28-225; and (2) the occupant of any occupational unit within a building, if such occupant is required under Section 7-28-220 to provide or contract to maintain scavenger service.

(b) *Exemptions applicable to owners.* The requirements set forth in item (1) of subsection (a) of this section shall not apply to: (1) an owner that backhauls all of the recyclable material listed in Section 11-5-080 in accordance with the requirements set forth in Article V of this chapter, as applicable; or (2) an owner that holds a valid certificate of exemption under Section 11-5-040, to the extent of such exemption.

(c) *Exemptions applicable to occupants of occupational units.* The requirements set forth in item (2) of subsection (a) of this section shall not apply to the occupant of an occupational unit if: (1) the occupant's lease agreement provides for scavenger service sufficient to meet such occupant's waste generation and recyclable material collection needs; or (2) the occupant backhauls all of the recyclable material listed in Section 11-5-080 in accordance with the requirements set forth in Article V of this chapter; or (3) the occupant's occupational unit is located within a building whose owner holds a valid certificate of exemption issued under Section 11-5-050 for the building, to the extent of such exemption; or (4) the occupant holds a valid certificate of exemption issued under Section 11-5-040 for the occupational unit, to the extent of such exemption.

(d) Any person who violates this section or any rule promulgated thereunder shall be given a 30-day notice of non-compliance, and shall come into compliance with this section within such 30-day period.

(e) In addition to any other penalty provided by law, any person who violates this section or any rule promulgated thereunder shall be fined not less than \$500.00 nor more than \$1,000.00 for a first violation; not less than \$1,000.00 nor more than \$2,500.00 for a second violation within any 12-month period; and not less than \$2,500.00 nor more than \$5,000.00 for a third and each subsequent violation occurring within 12 months of the most recent violation. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

11-5-040 Impossibility of compliance – Exemption.

If, due to the configuration, location or unique characteristics of an existing building, it is physically impossible or hazardous for a refuse collection customer to store recyclable material on the premises for separate collection or to otherwise comply with any requirement of this chapter, such refuse collection customer may apply to the Commissioner for a written certificate of exemption from compliance with the requirements of this chapter. Application for such certificate shall be made by the refuse collection customer, on a form provided by the department, and shall be accompanied by a non-refundable application fee of \$500.00.

Upon receipt of such application, the Commissioner or the Commissioner's designee shall conduct a site visit of the subject premises to determine the validity of the claim of impossibility or hazard. Prior to granting any exemption under this section, the Commissioner may request the refuse collection customer to work with a private hauler or other person, at the refuse collection customer's expense, to determine whether a reasonable alternative method of recycling can be implemented at such premises.

If, following such site visit, the Commissioner determines that it is not impossible or not hazardous for the refuse collection customer to store recyclable material on the premises for separate collection or to otherwise comply with any requirement of this chapter, the Commissioner shall enter a final order to such effect. Such final order shall be accompanied by a

written decision stating why the Commissioner determined that it is not impossible or not hazardous for the refuse collection customer to store recyclable material on the premises for separate collection or to otherwise comply with any requirement of this chapter. The Commissioner is authorized to and shall issue any final order necessary to enforce this section.

If, following such site visit, the Commissioner determines that it is impossible or hazardous for the refuse collection customer to store recyclable material on the premises for separate collection or to otherwise comply with any requirement of this chapter, the Commissioner shall issue to such refuse collection customer a certificate of exemption for such premises, which shall specify the scope of any exemption granted and, where practicable, shall require the refuse collection customer to implement a reasonable alternative method of recycling. If issued, such certificate shall exempt the premises identified in such certificate and all residents, tenants and occupants of such premises from compliance with the requirements of this chapter on the premises identified in such certificate, to the extent, and subject to the conditions, stated on the face of such certificate. Such certificate, which shall be transferable, shall be valid for a period of five years from the date of its issuance, or until such time that the premises identified in such certificate are substantially rehabilitated in a manner that allows for compliance with the requirements of this chapter, or until such time that the certificate of exemption is revoked for cause by the Commissioner following notice and a hearing before the Commissioner, whichever comes first. A copy of such certificate shall be posted by the refuse collection customer, in a conspicuous place, in a common area of the premises identified in such certificate. Upon request by any resident, tenant or occupant of the premises identified in such certificate, the refuse collection customer shall provide a copy of such certificate to such person.

11-5-050 Single stream recycling – Permitted.

Single stream recycling of recyclable material, which is a type of source-separated recycling, is permitted under this chapter.

11-5-060 Selective reuse or recycling of recyclable material – When permitted.

If a refuse collection customer has a contract in place with a private hauler for the provision of source-separated recycling services for all of the recyclable material listed in Section 11-5-080, as modified by, or added to, in duly promulgated rules issued under Section 11-5-340, nothing in the chapter shall be construed to prohibit such refuse collection customer from singling out one or more of the items of recyclable material included in such list for reuse by such refuse collection customer or for recycling by such refuse collection customer at a properly permitted facility.

11-5-070 Backhauling of recyclable material – Permitted.

Backhauling of recyclable material is permitted under this chapter in accordance with the requirements set forth in Article V of this chapter.

11-5-080 Recyclable material – Prohibited material.

(a) *Recyclable material.* Except as otherwise provided in duly promulgated rules and regulations issued under Section 11-5-340, the materials listed in items (1) through (13), inclusive, of this subsection (a), and any additional materials that may be added to such list

pursuant to duly promulgated rules issued under Section 11-5-340, shall be source-separated in accordance with the requirements of this chapter:

- (1) Aluminum cans, aluminum trays and foil;
- (2) Steel and tin cans;
- (3) Glass bottles and jars;
- (4) Plastic bottles and containers made from #1 through #5 plastic resin, inclusive, or #7 plastic resin as indicated in the chasing arrow symbol on the item;
- (5) Beverage cartons and aseptic packaging;
- (6) Newspaper;
- (7) Cardboard;
- (8) Paper bags;
- (9) Magazines, catalogues and telephone books;
- (10) Office paper, computer paper, notebook and gift wrap paper;
- (11) Chip board and carrier stock packaging such as food and beverage boxes;
- (12) Junk mail and envelopes;
- (13) Paperback books.

(b) *Prohibited material.* Except as otherwise provided in duly promulgated rules issued under Section 11-5-340, the materials listed in items (1) through (16), inclusive, of this subsection (b), and any additional materials that may be added to such list pursuant to duly promulgated rules issued under Section 11-5-340, shall not be deposited in any recycling container required to be provided under this ordinance pursuant to Section 11-5-120 or Section 11-5-230:

- (1) motor oil containers;
- (2) insecticide containers;
- (3) herbicide containers;
- (4) hazardous chemical containers;

- (5) plastic film;
- (6) plastic bags;
- (7) plastic sheets;
- (8) plastic tarps;
- (9) plastic wrap;
- (10) expanded foam;
- (11) reusable bottles, such as Nalgene or baby bottles;
- (12) clear polystyrene or styrofoam (#6 plastic);
- (13) any container or paper fiber other than those listed in subsection (a) of this section;
- (14) landscape waste;
- (15) plastic products without a chasing arrow symbol; or
- (16) any other waste as defined in Section 11-5-020.

(c) The fact that a material appears on the list of prohibited material set forth in subsection (b) of this section does not mean that recycling options are not available to allow for the disposal, reuse or recycling of such material in a safe and environmentally-friendly manner. The department shall post and maintain on its City of Chicago website a list of disposal, reuse and recycling options for material that is not required to be recycled under this ordinance but where alternatives exist for the safe and proper disposal of such material. At a minimum, such list of options shall be updated annually by the department.

(d) Any person who violates this section shall be fined not less than \$50.00 nor more than \$100.00 for each offense. Provided, however, that if a violation of any requirement of this section is also a violation of Section 11-5-110 or 11-5-170 or 11-5-260, the fine for violation of Section 11-5-110 or 11-5-170 or 11-5-260, as applicable, shall apply. Each day that a violation continues shall constitute a separate and distinct offense.

11-5-085 Removing recyclable material from a recycling container – Prohibition – Exemption.

No person shall remove any recyclable material from a recycling container located on the public way. Provided, however, that this prohibition shall not apply to any (1) private hauler

under contract with a refuse collection customer to collect recyclable material from such refuse collection customer, or (2) city inspector or other authorized city official acting within the scope of his or her legal duties, or (3) any person who deposits recyclable material in a recycling container and subsequently attempts to reclaim the material so deposited. In addition to any other penalty provided by law, any person who violates this section shall be subject to a fine of not less than \$100.00 nor more than \$500.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

11-5-090 Producing materials for inspection – Required.

Any person to whom a certificate of any type is issued under this chapter, or who is required under this chapter to provide a refuse collection customer or tenant with any manual, flier, written notification, written offer or documentation of any type, or who is required under this chapter to keep records or a log of any type or to file a report of any type or to enter into a waste collection contract, shall, upon request by any city inspector or authorized city official, make such certificate, manual, flier, written notification, written offer, documentation, records, log, report or contract available for inspection by such city inspector or authorized city official.

11-5-095 Violation – Penalty.

Except as otherwise provided in this Article II, and in addition to any other penalty provided by law, any person who violates this Article II or any rule promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

ARTICLE III. REFUSE COLLECTION CUSTOMERS

11-5-100 Exemption.

The requirements set forth in this Article III shall not apply to: (1) any refuse collection customer that backhauls all of the recyclable material listed in Section 11-5-080 in accordance with the requirements set forth in Article V of this chapter; or (2) any refuse collection customer that holds a valid certificate of exemption issued under Section 11-5-040, to the extent of such exemption.

11-5-110 Source-separated recycling – Required.

Each refuse collection customer shall engage in source-separated recycling and shall source-separate materials in accordance with Section 11-5-080.

11-5-120 Recycling containers – Required.

(a) Except as otherwise provided in Section 11-5-100, each refuse collection customer shall equip interior and exterior common areas of the premises under such refuse collection customer's control with recycling containers in an amount sufficient to enable persons occupying, using, visiting or lawfully upon such premises to engage in source-separated recycling. Nothing in this section shall be construed to require any refuse collection customer to

provide recycling containers on the public way or at any location where recycling containers are legally accessible to and emptied by a private or public hauler.

(b) The recycling containers required under this section shall: (1) be clearly identified as recycling containers, (2) display a written and/or pictorial list of the recyclable material that may be deposited into such container; (3) be emptied on a regular basis so that continued and uninterrupted source-separated recycling is able to occur on the premises; and (4) be maintained free from odor.

11-5-130 Recycling signs – Required.

(a) Except as otherwise provided in Section 11-5-100, each refuse collection customer shall post and maintain, in maintenance areas and common areas of the premises under such refuse collection customer's control, one or more permanent and legible signs notifying persons that source-separated recycling is required under Chapter 11-5 of the Municipal Code of Chicago. In addition, the signs required to be posted in maintenance areas shall list all of the material that is required to be source separated and shall describe the collection procedures for such material. The Department may promulgate rules setting forth the specific language or design of such signs.

(b) If a refuse collection customer provides scavenger service to any tenant of an occupational unit under such tenant's lease agreement, it shall be the duty of the refuse collection customer to equip each such tenant with permanent and legible recycling signs for use by such tenant in the space comprising the occupational unit. Such signs shall notify the employees, customers and clients of such tenant that source-separated recycling is required under Chapter 11-5 of the Municipal Code of Chicago. It shall be the duty of the tenant to post such recycling signs in common areas of the occupational unit.

11-5-140 Education of tenants – Required.

Except as otherwise provided in Section 11-5-100, each refuse collection customer shall develop and implement an ongoing education program to educate all tenants, residents and occupants of the premises under the refuse collection customer's control about the refuse collection customer's source-separated recycling program. Such education program shall include, but is not limited to, the following:

- (a) flyers containing, at a minimum, the following information:
 - (1) the types of materials required to be recycled, as set forth in subsection (a) of Section 11-5-080;
 - (2) the types of materials that cannot be deposited in a recycling container, as set forth in subsection (b) of Section 11-5-080;
 - (3) instructions on how to properly prepare materials for recycling;

- (4) the location of all recycling containers provided by the refuse collection customer and private hauler, both inside and outside the building;
- (5) the name of the private hauler that services the premises identified in the flyer and such private hauler's collection schedule;
- (6) the name and telephone number of a contact person authorized by the refuse collection customer to provide information and answer questions about the refuse collection customer's recycling program; and
- (7) any other information that the Commissioner may require.

If a refuse collection customer has a lease or rental agreement of any type with a tenant for the use by such tenant of any space within a building or portion of a building under the refuse collection customer's control, such refuse collection customer shall provide such tenant, within 30 calendar days after the effective date of this ordinance, with a copy of the flier required under this subsection (a). Thereafter, such refuse collection customer shall provide a copy of the flier required under this subsection to tenants at the time any lease, rental agreement or similar agreement between such refuse collection customer and a tenant is signed, renewed or otherwise extended; and

(b) Written notice to all existing residents, tenants and occupants of the building under such refuse collection customer's control of any change that is made or required to be made to the refuse collection customer's source-separated recycling program. Such notice shall be provided within ten calendar days of such change.

11-5-150 Violation – Penalty.

Except as otherwise provided in this Article III, and in addition to any other penalty provided by law, any person who violates this Article III or any rule promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

ARTICLE IV. PRIVATE HAULERS

11-5-160 Exemption.

For purposes of this Article IV, the term "private hauler(s)" shall not include backhaulers.

11-5-170 Source-separated recycling – Required.

Each private hauler shall engage in source-separated recycling and shall source-separate materials in accordance with Section 11-5-080.

11-5-180 Notification to customers – Required.

Private haulers shall notify their refuse collection customers in writing that source-separated recycling is required under Chapter 11-5 of the Municipal Code of Chicago. In addition, the written notification required under this section shall set forth what materials are required to be source separated and shall describe the collection procedures for such materials.

11-5-190 Private haulers to offer recycling services to customers – Required.

(a) If a private hauler provides waste collection service to a refuse collection customer, such private hauler shall offer in writing to provide recyclable material collection service to such refuse collection customer.

(b) If a private hauler's offer to provide recyclable material collection service is accepted by such hauler's refuse collection customer, the private hauler may provide recyclable material collection service to such refuse collection customer directly or may arrange to have such service provided to the refuse collection customer by a third-party provider. Provided, however, that if a private hauler provides recyclable material collection service to a refuse collection customer through a third-party provider, such private hauler shall be responsible for reporting all of the information required to be reported under Section 11-5-220 about the recyclable material recovered within the city by the third-party provider on such private hauler's behalf.

(c) If a private hauler's offer to provide recyclable material collection service is declined by the private hauler's refuse collection customer, the private hauler shall: (1) keep written documentation of such fact on file at the private hauler's primary place of business for the duration of the waste collection service contract between the private hauler and such customer; and (2) report such fact to the department, on a form provided by the department for such purposes, within 10 business days of the date on which the private hauler's offer to provide recyclable material collection service is declined by the refuse collection customer.

11-5-200 Delivery of recyclable material to properly permitted facility – Required.

Private haulers shall deliver all collected recyclable material to a properly permitted facility that will keep the recyclable material separate from waste until the recyclable material can be returned to the economic mainstream as new, used or reconstituted products.

11-5-210 Record keeping – Required.

Private haulers shall maintain complete and accurate records containing the following information: (1) the total tonnage of recyclable material collected by the private hauler from the totality of the private hauler's refuse collection customers within the city during each calendar year; (2) the name and address of each facility to which the private hauler delivered any percentage of such collected recyclable material during each calendar year; (3) the percentage of recyclable material delivered each calendar year by the private hauler to each facility identified pursuant to item (2) of this section; and (4) any other information that the Commissioner may

require in duly promulgated rules. The records required by this section shall be kept on file by the private hauler for a period of three years.

11-5-220 Annual recycling report – Required.

(a) *Duty to submit recycling report.* Each private hauler shall submit to the Department, on a form provided by the Department, an annual recycling report meeting the requirements of subsections (b), (c), (d) and (e) of this section.

(b) *Contents of recycling report.* The recycling report required by this section shall be completed in full and shall contain the following information:

- (1) the private hauler's full name and business address;
- (2) the full name, business telephone number and e-mail address of a responsible person to contact regarding the content of any recycling report submitted under this section;
- (3) the percentage of the private hauler's customers that are residential, commercial, industrial or institutional establishments;
- (4) if applicable, the tonnage of all recyclable material, per material type or category, collected by the private hauler within the city during the applicable reporting period; the name of the facility or facilities to which such recyclable material was delivered; and the approximate percentage of recyclable material delivered to each named facility;
- (5) if applicable, the tonnage of all construction and demolition debris, per material type or category, collected by the private hauler within the city during the applicable reporting period; the name of the facility or facilities to which such construction and demolition debris was delivered; and the approximate percentage of construction and demolition debris delivered to each named facility;
- (6) if applicable, the tonnage of all waste, excluding construction and demolition debris, collected by the private hauler within the city during the applicable reporting period; the name of the facility to which such waste was delivered; and the approximate percentage of waste delivered to each named facility; *and*
- (7) any other information that the Commissioner may require to implement this chapter.

(c) *Certification required.* Any private hauler submitting a recycling report under this section shall certify to the Department whether the information contained in such recycling report is accurate and complete. The Commissioner may investigate and verify any information

contained in such recycling report. Any person who knowingly makes a false statement of material fact in any recycling report submitted pursuant to this section shall be subject to prosecution under the False Statement Ordinance, Chapter 1-21, of the Municipal Code of Chicago.

(d) *Reporting schedule.* The annual recycling report required under this section shall be submitted by the private hauler to the Department no later than February 28th following the calendar year to which the annual report relates.

(e) *Review by Commissioner – Failure to submit report.* The Commissioner of Streets and Sanitation shall review and approve the adequacy of each annual recycling report submitted under this section. If the Commissioner notifies the Department of Business Affairs and Consumer Protection that the annual recycling report required under this section has not been filed in a timely manner or is incomplete, no private scavenger license issued under Section 4-6-130 shall be renewed by the Department of Business Affairs and Consumer Protection until such time that the Commissioner notifies the Department of Business Affairs and Consumer Protection that the annual recycling report required under this section has been filed and is complete.

11-5-230 Recycling containers – Required.

(a) All private haulers collecting recyclable material within the city shall provide their recycling customers with recycling containers that are legally accessible to the private hauler for collection.

(b) The recycling containers required under subsection (a) of this section shall: (1) be a shade of blue; (2) be distinctive in coloration from any waste container that is provided; (3) be constructed of a rigid material; (4) be clearly identified as a recyclable material container; (5) display a written and/or pictorial list of the recyclable material that may be deposited into the container; (6) be equipped with a close-fitting lid; (7) be leak-proof and rodent-proof; (8) bear the name and contact information of the private hauler providing the recycling containers, including the private hauler's business telephone number and business address; (9) in the case of a business, bear the name of the business served by the recycling container; and (10) in the case of a residential building, bear the address served by the recycling container. If the recycling container required to be provided under this section is constructed of plastic, the container's body and lid each shall be manufactured using 25 percent post-consumer recycled material; provided, however, that this requirement shall not apply to recycling containers in existence as of the effective date of this ordinance.

11-5-240 Educating customers about recycling – Required.

(a) All private haulers shall provide their recycling customers with a written instructional manual describing the recyclable material collection service being provided to the customer by the hauler. Such manual shall include, but is not limited to, the following information: (1) the definition of source-separated recycling; (2) why it is important to recycle;

(3) the list of material accepted and specifically prohibited for recycling as set forth in Section 11-5-080; (4) how to prepare recyclable material for handling by the hauler; (5) how to prevent contamination of recyclable material; and (6) the address of the Department's City of Chicago website, where this ordinance shall be posted and where additional information about disposal, reuse and recycling options can be obtained.

(b) Private haulers shall notify their recycling customers in writing of any change that the private hauler makes to the recyclable material collection service being provided by such hauler to the refuse collection customer. Such written notification shall be provided by the private hauler to the recycling customer at least 10 calendar days in advance of such change.

11-5-250 Violation – Penalty.

In addition to any other penalty provided by law, any person who violates this Article IV or any rule promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for a first violation; not less than \$1,000.00 nor more than \$2,500.00 for a second violation for the same offense within any 12-month period; and not less than \$2,500.00 nor more than \$5,000.00 for a third and each subsequent violation for the same offense occurring within 12 months of the most recent violation for the same offense. Each day that a violation continues shall constitute a separate and distinct offense.

ARTICLE V. BACKHAULERS

11-5-260 Source-separated recycling – Required.

Each backhauler shall engage in source-separated recycling and shall source-separate materials in accordance with the requirements set forth in Section 11-5-080.

11-5-270 Proper disposal of recyclable material – Required.

If backhauled recyclable material is not reused or recycled by or at the facility to which it is transported, the backhauler shall: (1) dispose of such recyclable material in accordance with the requirements set forth in Articles II and III of this chapter, and (2) shall contract with a private hauler, meeting the requirements of Article IV of this chapter, for collection of such recyclable material.

11-5-280 Selective backhauling of recyclable material – When permitted.

A backhauler may backhaul any or all of the recyclable material set forth in Section 11-5-080. Provided, however, that if a backhauler backhauls only some of the recyclable material set forth in Section 11-5-080, it shall be the duty of such backhauler to ensure that the remainder of the recyclable material set forth in Section 11-5-080 is collected by a private hauler in accordance with Article IV of this chapter.

11-5-290 Proper handling of recyclable material – Required.

Backhaulers shall keep backhauled recyclable material separate from waste.

11-5-300 Record keeping – Required.

Backhaulers shall maintain complete and accurate records containing the following information: (1) the total tonnage of backhauled recyclable material collected within the city by the backhauler during each calendar year; (2) the name and address of each facility to which such backhauled recyclable material was transported during each calendar year; and (3) the percentage of backhauled recyclable material transported each calendar year to each facility identified pursuant to item (2) of this section. The records required by this section shall be kept on file by the backhauler for a period of three years.

11-5-310 Annual recycling report – Required.

Backhaulers shall submit to the Department, on a form provided by the Department, an annual recycling report meeting the requirements of Section 11-5-220. Provided, however, that for purposes of this section, each reference in Section 11-5-220 to a “private hauler” shall be replaced by the term “backhauler.”

11-5-320 Violation – Penalty.

In addition to any other penalty provided by law, any person who violates this Article V or any rule promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

ARTICLE VI. MISCELLANEOUS REQUIREMENTS

11-5-330 Plastic bag and film plastic recycling.

Plastic carryout bags and film plastic are subject to Chapter 7-30 of this Code.

ARTICLE VII. ENFORCEMENT

11-5-340 Rules.

The Commissioner is authorized to promulgate rules necessary or appropriate to implement this chapter. Such rules shall be posted on the Department’s website at least 30 calendar days in advance of the effective date of such rules. The Commissioner may provide copies of such rules to private haulers, backhaulers or other interested persons using appropriate means as determined by the Commissioner.

11-5-350 Enforcing departments.

This chapter shall be enforced by the Department of Streets and Sanitation, and may be enforced by the Department of Police or any city department that uses a city inspector to enforce the requirements of this Code, including, but not limited to, the Department of Business Affairs and Consumer Protection, the Department of Buildings and the Department of Transportation.

SECTION 2. Section 4-6-150 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-6-150 Junk peddlers.

(Omitted text is unaffected by this ordinance)

(f) *Prohibited acts.* It shall be unlawful for any licensee engaged in the business of junk peddler to:

(Omitted text is unaffected by this ordinance)

(9) remove any recyclable material from a recycling container located on the public way in violation of Section 11-5-085.

SECTION 3. Section 4-6-130 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting, in correct alphabetical order, the language underscored, as follows:

4-6-130 Private scavenger.

(a) *Definitions.* As used in this section:

“Backhauler” has the meaning ascribed to the term in Section 11-5-020.

“Construction and demolition debris” has the meaning ascribed to the term in Section 11-4-120.

“Private scavenger” means any person engaged in the removal and disposal of recyclable material, or construction and demolition debris, or grease, fats and oils, or table refuse or animal or vegetative matter usually known as garbage, or other waste, from any premises where the removal and disposal of such matter is not provided for by the city. The term “private scavenger” does not include any: (i) person who gathers, removes or disposes of garbage or other waste from such person's own premises without the aid of a licensed private scavenger, if such person has received written permission to do so, in the form of a permit issued by the commissioner of streets and sanitation, and such person gathers, removes and disposes of the aforementioned material in the manner specified in such permit, or (ii) person who removes manure from his own premises; or (iii) backhauler meeting the requirements of Article V of Chapter 11-5 of this Code.

“Recyclable material” has the meaning ascribed to the term in Section 11-5-020.

“Recycling container” has the meaning ascribed to the term in Section 11-5-020.

“Refuse container” means any commercial refuse container or compacter as defined in Section 7-28-210.

(b) *Application – Additional information required.* In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a regulated business license to engage in the business of private scavenger shall be accompanied by the following information:

(1) the number of scavenger vehicles that the applicant intends to operate or use in connection with said business;

(2) the method of disposal and place of disposal of garbage or other waste being proposed by the applicant;

(3) in the case of renewal of any license, an inspection approval certificate, issued by the department of streets and sanitation and dated not earlier than 60 days preceding the date of application, for each scavenger vehicle used in the conduct of the business.

(c) *License issuance and renewal – Prohibited when.* No regulated business license to engage in the business of private scavenger shall be issued to the following persons:

(1) any applicant or licensee, as applicable, if the application for an initial license has not been approved by the department of streets and sanitation for compliance with the applicable health, sanitation and safety provisions of this Code;

(2) any applicant or licensee, as applicable, if such person has not obtained an inspection approval certification meeting the requirements of subsection (b)(3) of this section for each scavenger vehicle used in the conduct of the business;

(3) any applicant or licensee, as applicable, if the commissioner of does not approve the adequacy of any recycling program required to be developed and made available by the private scavenger pursuant to subsection (e)(4) of this section;

(4) any applicant or licensee, as applicable, who fails to provide proof of compliance with requirements set forth in subsection (e)(5) of this section; or

(5) any licensee under this section who has failed to submit in a timely manner the annual recycling report required under Section 11-5-220 or who has submitted an incomplete report, until such time that the commissioner of streets and sanitation notifies the department that the annual recycling report required under Section 11-5-220 has been filed and is complete.

(d) *Departmental duties.*

(1) The commissioner of streets and sanitation shall enforce the provisions of this section. Such commissioner is authorized to: (i) issue such reasonable orders in connection with carrying on the business of private scavenger as the commissioner deems necessary to protect the health of the public; and (ii) to issue permits, subject to reasonable terms and conditions as determined by the commissioner, to persons who desire, without the aid of a licensed private scavenger, to gather, remove or dispose of garbage or other waste from such person's own premises.

(2) The commissioner of streets and sanitation shall review and approve the adequacy of any recycling program required to be developed and made available by a private scavenger pursuant to subsection (e)(4) of this section.

(3) Along with every notice of violation of subsection (e)(12) of this section, the department of streets and sanitation shall provide to the private scavenger a picture of the refuse or recycling container identified in such notice.

(4) If a licensee under this section uses a vehicle to conduct the business of private scavenger, the city clerk shall issue to such person, at the time the license is issued, and any time a new vehicle is added to the licensee's fleet, a metal plate or other emblem for each vehicle used to conduct such business. Such plate or emblem shall be stamped or plainly marked with the words "Chicago Private Scavenger". Provided, however, that no metal plate or other emblem shall be issued under this section for any vehicle used in said business unless such vehicle has been inspected by the department of streets and sanitation, as evidenced by an inspection approval certificate issued by the department for such vehicle. Provided further, that if the commissioner of streets and sanitation notifies the city clerk that a licensee under this section has failed to submit in a timely manner the annual recycling report required under Section 11-5-220 or has submitted an incomplete report, no metal plate or other emblem shall be issued or renewed under this subsection for any vehicle used in said business until such time that the commissioner of streets and sanitation notifies the city clerk that the annual recycling report required under Section 11-5-220 has been filed and is complete.

(e) *Legal duties.* Each licensee engaged in the business of private scavenger shall have a duty to:

(1) remove any recyclable material as defined in Section 11-5-020 or diseased or dead animal, offal, rubbish, garbage, dirt, street-sweepings or other filthy, offensive or noxious substance that the licensee has contracted or undertaken to remove with dispatch and, in every particular, in a manner as clean and free from offense and with as little danger and prejudice to life and health as possible;

(2) comply with any reasonable order issued by the commissioner of streets and sanitation pursuant to authority granted to the commissioner under subsection (d)(1)(i) of this section, and to perform the work required of such licensee in such a way that no public nuisance is created;

(3) register with the commissioner of streets and sanitation, in the manner directed by the commissioner, each and every scavenger vehicle operated in the city by the licensee;

(4) develop and make available to all refuse collection customers an effective recycling program as required by Chapter 11-5 of this Code. Any hauler may subcontract with a recycling service provider, transfer station or other waste control facility to meet these requirements. The program shall be in writing and shall describe the categories of materials to be recycled, the involvement of the scavenger's or hauler's customers in the program, and the means of recycling. Such program shall be reviewed and approved by the commissioner of streets and sanitation. Included in that program shall be the specific measures required to ensure cooperation between the building manager and the municipal solid waste hauler;

(5) submit ~~written reports to the commissioner of streets and sanitation an annual recycling report meeting the requirements of Section 11-5-220 summarizing the private scavenger's recycling activities between January 1st and June 30th, on or before August 31st, and recycling activities between July 1st and December 31st, on or before February 28th of each year. Such written report shall contain the following data and information: (i) the weight of all materials collected in total by the licensee; (ii) the weight of all materials recycled by types or categories of materials, with a separate listing estimating the weight represented by buy-back or drop-off facilities; (iii) the percentage of customers that are high-density, condominium or cooperative residential buildings, and the percentage of customers that are commercial, office or retail establishments; (iv) the percentage of customers contracting for recycling services provided by or subcontracted by the hauler, and the percentage of customers subscribing to each type of recycling services if the hauler provides more than one collection method; (v) the percentage of customers contracting for recycling services; and (vi) any other information that the commissioner of streets and sanitation may reasonably require;~~

(6) replace any scavenger vehicle that becomes unsuitable for the purpose for which it was originally intended with a vehicle of a type acceptable to the commissioner of streets and sanitation;

(7) notify the commissioner of streets and sanitation if the licensee suspends service at any location within the City. Such notice shall be in a form specified by the commissioner, and shall identify the licensed scavenger, the address of the location at which service has been suspended, and the name and nature of the business conducted at the location. The notice shall be delivered to the commissioner within three days after suspension of service. Any person who violates ~~any requirement of this section subsection~~ shall be subject to a fine of

not less than \$200.00 nor more than \$500.00 for each offense. Each day such that a violation continues shall constitute a separate and distinct offense;

(8) obtain from the city clerk, at the time the license is issued and any time a new vehicle is added to the private scavenger's fleet of vehicles, a metal plate or other emblem for each scavenger vehicle used in the to conduct of the licensed business, so licensed. Such plate or emblem shall be stamped or plainly marked the words "Chicago Private Seavenger". Said plate or emblem shall be and conspicuously displayed display such plate or emblem on each scavenger vehicle used in said business;

(9) provide refuse or recycling containers, as applicable, to customers, and to paint or otherwise permanently affix on each refuse such container the name and phone number of the licensee;

(10) upon suspension by a customer of any contract for private scavenger service, remove any refuse or recycling container provided to the licensee's customer within 30 days of the date on which such customer suspends or terminates its contract with the licensee on which such suspension occurred;

(11) upon termination by a customer of any contract for private scavenger service, remove any refuse or recycling container provided to the licensee's customer within three days of the date on which such termination occurred;

(12) be responsible for the appearance of any refuse or recycling container that the private scavenger provides to its customers; deliver a any required refuse or recycling container free of graffiti; and remove graffiti from any refuse or recycling container within 15 business days of receiving written notification from the commissioner of streets and sanitation. Provided, however, that from December 1 to March 1, if weather conditions make removal of the graffiti impracticable, the commissioner may, by written order, extend the time for removal of the graffiti to such time when removal would be practicable. Any person who violates any provision of this subsection shall be subject to a fine of not less than \$100.00 nor more than \$300.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense;

(13) carry in each of the licensee's scavenger vehicles a rake, broom, shovel or other implement of sufficient strength and durability, which shall be used by the licensee for the removal of to remove scattered or spilled refuse or recyclable material. The commissioner of streets and sanitation may issue regulations rules specifying the types and conditions of the implements required to be used to comply complying with the requirements of this subsection;

(14) whenever collecting refuse or recyclable material, completely remove all scattered refuse or recyclable material lying within six feet of the container or container area

which the private scavenger is servicing and all refuse or recyclable material dropped or spilled during collection.

(f) *Prohibited acts.* It shall be unlawful for any licensee engaged in the business of private scavenger to:

- (1) provide any refuse or recycling container to any person who is not a customer of the private scavenger or to whom the private scavenger is not providing service;
- (2) violate any applicable requirement set forth in Section 7-28-226;
- (3) violate any applicable requirement set forth in Section 7-28-215-;
- (4) violate any requirement set forth in Article IV of Chapter 11-5 of this Code; or
- (5) remove any recyclable material from a recycling container located on the public way in violation of Section 11-5-085, unless the licensee is under contract with a refuse collection customer to collect recyclable material from such refuse collection customer.

(g) *Construction of section.* Nothing in this section shall be construed to conflict with any existing or future provision of this Code concerning the removal and disposal of dirt, filth, litter, garbage, ashes, manure, offal, swill, dead animals, recyclable material and other material from the public way by the city acting through its contractors or otherwise.

SECTION 4. Section 11-4-250 of the Municipal Code of Chicago is hereby amended by Inserting the language underscored, as follows:

11-4-250 Waste handling facilities – Permit required – Annual report required.

(a) It shall be unlawful for any person to install or to construct or to operate any liquid waste handling facility, resource recovery facility, incinerator, sanitary landfill, transfer station or any facility that disposes, handles or treats any waste in the City of Chicago without having obtained a written permit from the commissioner. No changes, additions, expansions or extensions to any such facility shall be made without having obtained a written permit from the commissioner. For purposes of this section, an expansion or extension shall refer to an increase in the horizontal and/or vertical permitted limits of a facility or an increase in the handling or treating capacity of a facility; provided, however, the definition of expansion with respect to sanitary landfills shall be as set forth in Section 11-4-120.

Any operation at any such facility which exceeds or does not comply with the plans and specifications of the facility reviewed and approved by the commissioner pursuant to the permit

application, or which violates any of the conditions imposed by the permit, or which violates any provisions of this chapter or regulations promulgated hereunder will constitute grounds for revocation of the permit.

(b) Any person requiring a permit under this section shall submit to the commissioner of the department of streets and sanitation a written annual report summarizing all waste and recyclable material disposition, handling and treatment activities occurring at the facility during each calendar year. The annual report required under this subsection shall be submitted by such person to the department no later than February 28th following the calendar year to which the annual report relates. Such report shall contain the following data and information:

- (1) the full name and business address of the permitted facility;
- (2) the full name, business telephone number and e-mail address of a responsible person to contact regarding the content of any written report submitted under this section;
- (3) if applicable, the tonnage of all recyclable material, per material type or category, collected by the permittee during the applicable reporting period; the name and location of the facility to which each type or category of recyclable material was delivered; and the approximate percentage of each type or category of recyclable material delivered to each named facility;
- (4) if applicable, the tonnage of all municipal solid waste collected by the permittee during the applicable reporting period; the name and location to which the municipal solid waste was delivered; and the approximate percentage of municipal solid waste delivered to each named location;
- (5) if applicable, the tonnage of all construction and demolition debris, per material type or category, collected by the permittee during the applicable reporting period; the name and location to which the construction and demolition debris was delivered; and the approximate percentage of construction and demolition debris delivered to each named location; and
- (6) any other information that the commissioner of streets and sanitation may require to implement the requirements of this Chapter and Chapter 11-5 of this Code.

(c) If a permittee under this section fails to submit in a timely manner the annual recycling report required under subsection (b) of this section or submits an incomplete annual recycling report, such permittee's permit under this section shall not be renewed by the department until such time that the annual recycling report required under subsection (b) of this section is submitted and is complete.

(d) Penalties imposed for violations of this section shall be as provided in Section 11-4-030 of this Code.

SECTION 5. Section 11-4-2520 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

11-4-2520 Permit – Required.

(Omitted text is unaffected by this ordinance)

If a permittee under this section fails to submit in a timely manner the annual recycling report required under Section 11-4-250 or submits an incomplete annual recycling report, such permittee's permit under this section shall not be renewed by the department of public health until such time that the annual recycling report required under Section 11-4-250 is submitted and is complete.

SECTION 6. Section 11-4-2535 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

11-4-2535 Report Annual report required.

(a) Any person who operates or maintain requires a permit under Section 11-4-2520 to operate or maintain a recycling facility shall submit a written report to the commissioner of the department of streets and sanitation a written annual report summarizing all recycling activities occurring at the facility during each calendar year, between January 1st and June 30th, on or before August 31st and recycling activities between July 1st and December 31st, on or before The annual report required under this section shall be submitted by such person to the department no later than February 28th of each year, following the calendar year to which such report relates. Such report shall contain setting forth the following data and information:

- (1) the full name and business address of the recycling facility;
- (2) the full name, business telephone number and e-mail address of a responsible person to contact regarding the content of any written report submitted under this section;
- (a)(3) The weight the tonnage of all recyclable materials, per material type or category, collected in total by the permittee during the applicable reporting period; the approximate percentage of each type or category of recyclable material collected by the permittee; the name and location to which each type or category of

recyclable material was delivered; and the approximate percentage of each type or category of recyclable material delivered to each named location; and

- (b)(4) The weight of all materials recycled by types or categories of materials with a separate listing estimating the weight represented by buy back or drop off facilities; and if applicable, the tonnage of all municipal solid waste collected by the permittee during the applicable reporting period; the name and location to which the municipal solid waste was delivered; and the approximate percentage of municipal solid waste delivered to each named location;
- (e)(5) The percentage of customers that are high density, condominium or cooperative residential buildings, and the percentage of customers that are commercial, office or retail establishments; if applicable, the tonnage of all construction and demolition debris, per material type or category, collected by the permittee during the applicable reporting period; the approximate percentage of each type or category of construction and demolition debris collected by the permittee; the name and location of the facility to which each type or category of construction and demolition debris was delivered; and the approximate percentage of each type or category of construction or demolition debris delivered to each named location; and
- (6) any other information that the commissioner of streets and sanitation may require to implement the requirements of this Chapter and Chapter 11-5 of this Code.

(b) Penalties imposed for violations of this section shall be as provided in Section 11-4-030 of this Code.

SECTION 7. Upon its passage and approval, this ordinance shall take full force and effect on January 1, 2017.

July 20, 2016

REPORT OF THE COMMITTEE ON HEALTH AND ENVIRONMENTAL PROTECTION

PRESENTING A REPORT FOR YOUR COMMITTEE ON HEALTH AND ENVIRONMENTAL PROTECTION WHICH HELD A MEETING ON July 18, 2016. THE FOLLOWING ORDINANCES WERE PASSED BY A MAJORITY OF THE MEMBERS PRESENT.

O2016-4792 (Substitute) Ordinance regarding residential recycling

O2016-4791 Ordinance regarding produce stands on the public way

O2016-2642 (Substitute) Ordinance regarding the establishment of a coyote wildlife management program

I HEREBY MOVE PASSAGE OF THIS ITEM BY THE LAST MOST FAVORABLE VOTE OF THE FINANCE COMMITTEE REPORT AND THE ASSOCIATED MOTION TO RECONSIDER.

Respectfully submitted,

George A. Cardenas
Alderman, 12th Ward

Article 6: Collection, Transportation and Disposal of Refuse and Solid Waste**Division 7: Recycling Ordinance**

(“*Recycling Ordinance*” Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

§66.0701 Findings

The Council of the City of San Diego finds and declares that:

- (a) The *City* operates the Miramar Landfill, which is currently the only municipal landfill in the *City*. The Miramar Landfill currently is expected to close in 2030. Preserving landfill capacity at the Miramar Landfill in order to extend the useful life of the Miramar Landfill for the citizens of the *City* is a paramount concern.
- (b) The *City* has met, and continues to make progress in maintaining, the waste *diversion* requirements imposed by *AB 939*, but additional efforts, particularly in the *recycling* of paper, cardboard, *organic waste*, and other *recyclable materials*, will assist the *City* in maintaining and exceeding the goal of *diverting* 50% of its waste from landfill *disposal*.
- (c) Studies show that approximately 17% of the waste generated in the *City* and delivered for landfill *disposal* is paper and 32% is compostable *organic waste*, all of which could be *diverted* from landfill *disposal*.
- (d) Efforts by the *City* and the private sector for *diversion* of residential and *commercial* waste as required by this Division have been successful, but additional efforts are necessary to ensure continued compliance with *AB 939* requirements and with other State laws that mandate *recycling*, including *recycling* of *organic waste*.
- (e) *Recycling* programs in other jurisdictions in the State, similar to the one implemented by this Division, have proven successful in increasing *diversion* of *recyclable materials*, including *organic waste*, and have been favorably received by the California Department of Resources Recycling and Recovery.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0702 Purpose

The purpose of this Division is to establish requirements for *recycling of recyclable materials*, including *organic waste*, generated from *residential facilities*, *commercial facilities* (including *City buildings*), and special events. These requirements are intended to increase the *diversion of recyclable materials*, including *organic waste*, from landfill *disposal*, conserve the capacity and extend the useful life of the Miramar Landfill, reduce greenhouse gas emissions, and avoid the potential financial and other consequences to the *City* of failing to meet State-mandated *recycling* requirements.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0703 Definitions

All defined terms in this Division appear in *italics*. For purposes of this Division, the following definitions apply:

AB 939 has the same meaning as in San Diego Municipal Code section 66.0102.

Certified recyclable materials collector means a *Recyclable Materials Collector* which has been issued a certificate by the City pursuant to this Division.

City has the same meaning as in San Diego Municipal Code section 66.0102.

Collect or *Collection* shall mean to take physical possession of and remove *solid waste* or *recyclable materials* at the place of generation.

Commercial edible food generator has the same meaning as in title 14, section 18982(a)(7) of the California Code of Regulations, as it may be amended.

Commercial facilities means any facilities that are not *residential facilities* or *mixed use facilities* and includes, but is not limited to, mercantile, institutional, governmental, and industrial facilities. *Commercial facilities* include *City buildings* for which the *responsible person* is a *City employee*.

Construction and demolition waste has the same meaning as in San Diego Municipal Code section 66.0102.

Department means the City of San Diego Environmental Services Department or its successor.

Director has the same meaning as in San Diego Municipal Code section 66.0102.

Disposal has the same meaning as in San Diego Municipal Code section 66.0102.

Diversion or Divert means the reduction or elimination of *solid waste* from landfill *disposal*.

Edible food has the same meaning as in title 14, section 18982(a)(18) of the California Code of Regulations, as it may be amended.

Food material has the same meaning as in San Diego Municipal Code section 66.0102.

Food recovery has the same meaning as in title 14, section 18982(a)(24) of the California Code of Regulations, as it may be amended.

Food recovery organization has the same meaning as in title 14, section 18982(a)(25) of the California Code of Regulations, as it may be amended.

Food recovery service has the same meaning as in title 14, section 18982(a)(26) of the California Code of Regulations, as it may be amended.

Franchisee has the same meaning as in San Diego Municipal Code section 66.0102.

Green material has the same meaning as in San Diego Municipal Code section 66.0102.

Hazardous substance has the same meaning as in San Diego Municipal Code section 66.0102.

Hazardous waste has the same meaning as in San Diego Municipal Code section 66.0102.

Large event has the same meaning as in title 14, section 18982(a)(38) of the California Code of Regulations, as it may be amended.

Large venue has the same meaning as in title 14, section 18982(a)(39) of the California Code of Regulations, as it may be amended.

Lot means a parcel, tract, or area of land established by plat, subdivision, or by means described in San Diego Municipal Code section 113.0237(a) to be owned, used, or developed.

Manager has the same meaning as in San Diego Municipal Code section 66.0102.

Medical waste has the same meaning as in San Diego Municipal Code section 66.0102.

Mixed use facilities means facilities which include both residential and commercial uses.

Multi-family residential facility means two or more residences on a single *lot*.

Organic waste has the same meaning as in title 14, section 18982(a)(46) of the California Code of Regulations, as it may be amended.

Person has the same meaning as in San Diego Municipal Code section 66.0102.

Recyclable has the same meaning as in San Diego Municipal Code section 66.0102 and includes *organic waste*.

Recyclable materials has the same meaning as in San Diego Municipal Code section 66.0102 and includes *organic waste*.

Recyclable materials collector has the same meaning as in San Diego Municipal Code section 66.0102 and includes those who *collect organic waste*.

Recycling or *Recycle* has the same meaning as in San Diego Municipal Code section 66.0102 and includes *organic waste*.

Recycling facility means a *recycling*, composting, or materials recovery or reuse facility.

Refuse has the same meaning as in San Diego Municipal Code section 66.0102.

Residential facility means a *single family residential facility* or a *multi-family residential facility*.

Responsible person has the same meaning as in San Diego Municipal Code section 11.0210 and includes the *person* responsible for the management, including disposal and recycling, of *solid waste* generated at the *residential facility*, *commercial facility*, *mixed use facility*, or special event.

Self-haul means the process of personally, or through one's own full-time employees, *collecting*, transporting, and delivering one's own *solid waste* or *recyclable materials*.

Single family residential facility means one residence on a single *lot*.

Solid waste means all putrescible and nonputrescible solid and semi-solid wastes, including garbage, trash, *refuse*, rubbish, *construction and demolition waste*, metallic discards, vegetable or animal solid or semi-solid wastes, and other solid or semi-solid wastes. *Solid waste* does not include *hazardous waste*, *hazardous substances*, *medical waste*, or *recyclable materials*.

Solid waste facility has the same meaning as in San Diego Municipal Code section 66.0102.

Tier one commercial edible food generator has the same meaning as in title 14, section 18982(a)(73) of the California Code of Regulations, as it may be amended.

Tier two commercial edible food generator has the same meaning as in title 14, section 18982(a)(74) of the California Code of Regulations, as it may be amended.

Vegetative food material means *food material* that is also plant material, and that may be processed or cooked but must otherwise retain its natural character without any added salts, preservatives, fats or oils, or adulterants. *Vegetative food material* may include fruits and vegetables, edible flowers and plants, outdated and spoiled produce, and coffee grounds.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 11-1-2016 by O-20736 N.S.; effective 12-1-2016.)

(Amended 2-9-2018 by O-20900 N.S.; effective 3-11-2018.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0704 Unlawful Acts

It is unlawful for any *person* to fail to comply with any provision or requirement set forth in this Division which is applicable to such *person*.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

§66.0705 Recycling Requirement for Persons Serviced by City of San Diego

Persons who are provided with curbside *recycling collection* services by the City of San Diego shall participate in the City curbside *recycling* program by separating *recyclable materials* from other *solid waste*, depositing the *recyclable materials* in the approved *recycling* containers, and placing the *recycling* containers out for *collection* at the time and place designated by the City.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

§66.0706 Recycling Requirement for Residential Facilities Serviced by Franchisee

(a) *Residential Facilities.* For *single family residential facilities* that receive *solid waste collection* services from a *Franchisee*, the *responsible person* shall provide curbside *recycling* services to occupants as required by section 66.0706(c). For *multi-family residential facilities* that receive *solid waste collection* services from a *Franchisee*, the *responsible person* shall provide on-site *recycling* services to occupants as required by sections 66.0706(c) and 66.0706(d).

(b) Occupants of *Residential Facilities*. Occupants of *residential facilities* that receive *solid waste collection* services from a *Franchisee* shall participate in a *recycling* program, offered by the *Franchisee* or a *Recyclable Materials Collector*, by separating *recyclable materials* from other *solid waste*, depositing the *recyclable materials* in the designated *recycling* containers, and placing the *recycling* containers out for *collection* at the time and place designated by the *Franchisee* or *Recyclable Materials Collector*.

(c) *Recycling Services.* *Recycling* services for *residential facilities* shall include, at a minimum, all of the following:

- (1) *collection* in a separate container and at least two times per month of commingled plastic and glass bottles and jars, paper, newspaper, metal containers, cardboard, and rigid plastics, including clean food containers, jugs, tubs, trays, pots, buckets, and toys;
- (2) weekly *collection* in a separate container of yard trimmings and nonhazardous wood waste. If yard trimmings or nonhazardous wood waste will be hauled away by a gardening or landscaping service provider as an incidental part of its services at the property, then the service contract or agreement shall require the gardening or landscaping service provider to take the yard trimmings and nonhazardous wood waste to a mulching or composting facility for *recycling*;
- (3) weekly *collection* in a separate container of *food material* and food-soiled paper mixed with *food material*;
- (4) alternatively, in lieu of San Diego Municipal Code sections 66.0706(c)(2) and 66.0706(c)(3), weekly *collection* in a separate container of *food material* or food-soiled paper mixed with *food material* that is commingled with yard trimmings or nonhazardous wood waste;

- (5) *collection* of other *recyclable materials* for which markets exist, such as scrap metal, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the *City* gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice including such *recyclable materials* on the *Department*'s website;
- (6) utilization of *recycling* containers that comply with the size and color standards in the Container and Signage Guidelines established by the *Manager*;
- (7) designated *recycling collection* and storage areas;
- (8) signage on all *recycling* receptacles, containers, chutes, and/or enclosures which complies with the standards described in the Container and Signage Guidelines established by the *Manager*; and
- (9) containers for *recyclable materials* in all areas where *solid waste* containers are located.

(d) Education. For *multi-family residential facilities*, and for *single family residential facilities* receiving *recycling* services through a homeowners' association, the *responsible person* shall ensure that *persons* are educated about the *recycling* services as follows:

- (1) Information, including the types of *recyclable materials* accepted and not accepted, the location of *recycling* containers, the *recycling* requirements, and the *person*'s responsibility to *recycle* pursuant to this Division, shall be distributed to all occupants, employees, and contractors annually;
- (2) All new occupants shall be given information and instructions upon occupancy; and
- (3) All occupants shall be given information and instructions upon any change in *recycling* service to the facility.

(e) Container Contamination. For all *residential facilities*, the *responsible person* shall prohibit placing *recyclable materials* in a container not designated to receive those *recyclable materials* and shall periodically inspect containers and inform occupants, employees, and contractors if containers are contaminated.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0707 Recycling Requirements for Commercial Facilities Serviced by Franchisee

- (a) *Commercial Facilities.* For *commercial facilities* that receive *solid waste collection* services from a *Franchisee*, the *responsible person* shall provide on-site *recycling* services to occupants as required by sections 66.0707(c) and 66.0707(d).
- (b) Occupants of *Commercial Facilities*. Occupants of *commercial facilities*, that receive *solid waste collection* services from a *Franchisee*, shall participate in a *recycling* program by separating *recyclable materials* from other *solid waste*, depositing the *recyclable materials* in the designated *recycling* containers, and placing the *recycling* containers out for *collection* at the time and place designated by the *Franchisee* or *Recyclable Materials Collector*.
- (c) *Recycling Services.* *Recycling* services for *commercial facilities* shall include, at a minimum, all of the following:
 - (1) *collection* in a separate container and as frequently as necessary to meet demand of commingled plastic and glass bottles and jars, paper, newspaper, metal containers, cardboard, and rigid plastics, including clean food containers, jugs, tubs, trays, pots, buckets, and toys;
 - (2) weekly *collection* in a separate container of yard trimmings and nonhazardous wood waste. If yard trimmings or nonhazardous wood waste will be hauled away by a gardening or landscaping service provider as an incidental part of its services at the property, then the service contract or agreement shall require the gardening or landscaping service provider to take the yard trimmings and nonhazardous wood waste to a mulching or composting facility for *recycling*;
 - (3) weekly *collection* in a separate container of *food material* and food-soiled paper mixed with *food material*;
 - (4) alternatively, in lieu of San Diego Municipal Code sections 66.0707(c)(2) and 66.0707(c)(3), weekly *collection* in a separate container of *food material* or food-soiled paper mixed with *food material* that is commingled with yard trimmings or nonhazardous wood waste;

- (5) *collection* of other *recyclable materials* for which markets exist, such as scrap metal, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the *City* gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice including such *recyclable materials* on the *Department*'s website;
- (6) utilization of *recycling* containers that comply with the size and color standards in the Container and Signage Guidelines established by the *Manager*;
- (7) designated *recycling collection* and storage areas;
- (8) signage on all *recycling* receptacles, containers, chutes, and/or enclosures which complies with the standards described in the Container and Signage Guidelines established by the *Manager*; and
- (9) containers for *recyclable materials* in all areas where *solid waste* containers are located.

(d) Education. For *commercial facilities*, the *responsible person* shall ensure that *persons* are educated about the *recycling* services as follows:

- (1) Information, including the types of *recyclable materials* accepted and not accepted, the location of *recycling* containers, the *recycling* requirements, and the *person*'s responsibility to *recycle* pursuant to this Division, shall be distributed to all tenants, employees, customers, and contractors annually;
- (2) All new occupants shall be given information and instructions upon occupancy; and
- (3) All occupants shall be given information and instructions upon any change in *recycling* service to the *commercial facility*.

(e) Container Contamination. The *responsible person* for the *commercial facility* shall prohibit placing *recyclable materials* in a container not designated to receive those *recyclable materials* and shall periodically inspect containers and inform tenants, employees, customers, and contractors if containers are contaminated.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0708 Recycling Requirements for Mixed Use Facilities

- (a) Majority Residential. For a *mixed use facility* which has the majority of its square footage devoted to residential uses, the *responsible person* shall comply with the *recycling* requirements set forth in Section 66.0706 of this Division.
- (b) Majority Commercial. For a *mixed use facility* which has the majority of its square footage devoted to commercial uses, the *responsible person* shall comply with the *recycling* requirements set forth in Section 66.0707 of this Division.
- (c) Occupants of Majority Residential *Mixed Use Facility*. Occupants of a *mixed use facility* which has the majority of its square footage devoted to residential uses, shall comply with the *recycling* requirements applicable to occupants set forth in Section 66.0706 of this Division.
- (d) Occupants of Majority Commercial *Mixed Use Facility*. Occupants of a *mixed use facility* which has the majority of its square footage devoted to commercial uses, shall comply with the *recycling* requirements applicable to occupants set forth in Section 66.0707 of this Division.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

§66.0709 Delivery of Recyclable Materials to Recycling Facility

Except for the collection of *recyclable vegetative food materials* by a *certified recyclable materials collector* in accordance with San Diego Municipal Code section 66.0109(c)(4), *franchisees* and *recyclable materials collectors* who *collect recyclable materials* generated within the *City* shall deliver those *recyclable materials* to a *recycling facility*. *Persons* who *self-haul recyclable materials* must deliver those *recyclable materials* to a *recycling facility*. The *recycling facility* may be located at a *landfill*, but *recyclable materials* generated within the *City* shall not be delivered to a *landfill* or other site for *disposal*. *Recyclable vegetative food materials* generated within the *City* shall not be delivered to a *landfill* or other site for *disposal*.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-9-2018 by O-20900 N.S.; effective 3-11-2018.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0710 Recycling Containers

- (a) Container Signage. Automatic lift containers, bins, roll-offs, and other containers provided by *franchisees* and *recyclable materials collectors* to *collect* and store *recyclable materials* pending *collection* shall be clearly identified as a *recyclable materials* container, shall display the name and phone number of the *franchisee or recyclable materials collector* to whom the container belongs, and shall display a label, imprinted text or graphic images of the primary *recyclable materials* which shall be deposited in the container and the primary *recyclable materials* which shall not be deposited in that container. Container signage shall comply with the Container and Signage Guidelines established by the *Manager*.
- (b) Container Color: Containers shall comply with the container color requirements in the Container and Signage Guidelines established by the *Manager*.
- (c) Container Features. Automatic lift containers, bins, roll-offs, and other containers provided by *franchisees* and *recyclable materials collectors* to *collect* and store *recyclable materials* pending *collection* shall be equipped with close-fitting lids and be leak-proof and rodent-proof.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0711 Reports from Franchisees and Certified Recyclable Materials Collectors

- (a) *Franchisees* and *certified recyclable materials collectors* shall submit semi-annual reports to the *Department*, by March 1 and September 1 of each year, on a form or using a format prescribed by the *Director*. Semi-annual reports shall include the following information for each facility serviced in the *City* for the period January 1 through June 30 or July 1 through December 31, as applicable, of the immediately preceding six-month period:
 - (1) The name of the *person(s)* responsible for *solid waste* and *recyclable materials* management at the facility serviced;
 - (2) The name and address of the facility serviced;
 - (3) The volume in cubic yards or gallons, measured by the size of the applicable containers in use at the facility, of *solid waste* and *recyclable materials collected* per week from the facility;
 - (4) The frequency of *solid waste* and *recyclable materials collection* service provided to the facility; and

(5) Additional information as required by the *Director*.

(b) *Franchisees and certified recyclable materials collectors* also shall include in the semi-annual reports for the time period specified in San Diego Municipal Code section 66.0711(a) the following information:

- (1) The total amount of *recyclable materials*, measured in tons, *collected* by the *Franchisee* or *Certified Recyclable Materials Collector* within the City; and
- (2) The names and addresses of the *recycling facilities* to which the *recyclable materials* *collected* within the City were delivered for *recycling*.

(c) *Certified recyclable materials collectors* that *collect recyclable food materials* in accordance with San Diego Municipal Code section 66.0109(c)(4) shall submit a quarterly report, by the twentieth of each month following the end of a calendar year quarter, to the *Department*, on a form or using a format prescribed by the *Director*. Calendar year quarters end on March 31, June 30, September 30, and December 31 of each year. Quarterly reports shall include the following information:

- (1) The name of the *person(s)* responsible for *recyclable materials* management at the facility whose *recyclable food materials* were serviced;
- (2) The name and address of the facility serviced;
- (3) The volume in cubic yards or gallons of *recyclable food materials*, measured by the size of the applicable containers in use at the facility, *collected* per week from the facility;
- (4) The names and addresses of the sites to which the *recyclable food materials* *collected* within the City were delivered for composting or final processing;
- (5) For *recyclable vegetative food materials* *collected* within the City and delivered for composting or final processing to a site other than a *recycling facility*, a letter of acknowledgement from the site property owner providing their acceptance of the *recyclable vegetative food materials* for composting or final processing; and
- (6) The volume in cubic yards or gallons of *recyclable food materials* delivered to each site per week for that calendar year quarter.

(d) *Franchisees and certified recyclable materials collectors* shall submit additional reports as requested by the *Director* which are necessary to meet the *City's* reporting requirements to the California Department of Resources Recycling and Recovery, or its successor, or to any other State or federal agency.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Retitled from "Annual Reports from Franchisees and Recyclable Materials Collectors" to "Reports from Franchisees and Certified Recyclable Materials Collectors" and amended 2-9-2018 by O-20900 N.S.; effective 3-11-2018.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0712 Special Events Recycling

(a) *Special Events.* For a community special event requiring an event permit from the *City*, the *responsible person* shall provide *recycling* receptacles throughout the event venue and shall provide *recycling* services as described in San Diego Municipal Code section 66.0712.

(b) *Recycling Services.* *Recycling* services shall include, at a minimum, all of the following:

- (1) separate containers for commingled plastic and glass bottles and jars, paper, newspaper, metal containers, cardboard, and rigid plastics, including clean food containers, jugs, tubs, trays, pots, buckets, and toys;
- (2) separate containers for wood pallets;
- (3) separate containers for commingled *food material*, food-soiled paper, yard trimmings, and nonhazardous wood waste, if the event generates, distributes, provides or sells food or other organic material;
- (4) separate containers for other *recyclable materials* for which markets exist, such as scrap metal, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the *City* gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice including such *recyclable materials* on the *Department's* website;
- (5) a specified number of *recycling* receptacles relative to the quantity of *solid waste* receptacles based upon the size of the event and as approved in the special event permit;

- (6) placement of *solid waste* and *recycling* receptacles next to one another throughout the event venue; and
- (7) *organic waste recycling* receptacles set up in compliance with the Container and Signage Guidelines established by the *Manager*.

(c) Receptacles. Each *recycling* receptacle shall be clearly identified as a *recycling* receptacle and shall display a label, imprinted text, or graphic images of the primary *recyclable materials* which shall be deposited into the *recycling* receptacle and the primary *recyclable* materials which shall not be deposited in that receptacle. Container signage shall comply with the Container and Signage Guidelines established by the *Manager*.

(d) Delivery to *Recycling Facility*. The *responsible person* shall ensure that the *recyclable materials* deposited into the *recycling* receptacles are delivered to a *recycling facility*. The *recycling facility* may be located at a landfill, but *recyclable materials* shall not be delivered to a landfill for *disposal*.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0713 Exemptions

- (a) Cubic yard exemption.
 - (1) *Multi-family residential facilities, commercial facilities, and mixed use facilities* that generate 0.001 cubic yard or less per week of *solid waste* including *recyclable materials*, described in San Diego Municipal Code sections 66.0706(c)(1) through 66.0706(c)(4) or 66.0707(c)(1) through 66.0707(c)(4) as applicable, mixed with *solid waste* are exempt from the requirements of this Division.
 - (2) The cubic yard thresholds may be adjusted at the discretion of the *Manager* and shall be effective 90 days after the *City* gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice on the *Department*'s website.

(b) Other Exemptions. Other exemptions to some or all of the requirements of this Division may be granted at the discretion of the *Director*'s designee. Applications for exemptions may be granted upon consideration of the following factors: available markets for *recyclable materials*, available space for *recycling* containers, alternative *recycling* efforts, and the amount and type of *solid waste* or *recyclable materials* generated. To be effective, an exemption must be in writing and signed by the *Director*'s designee. An exemption may be revoked at any time at the discretion of the *Director*'s designee if one or more of the factors justifying the exemption no longer exist, or other change in circumstances warrant revocation. Unless earlier revoked, an exemption shall be effective for a period of one year from the date it was granted. Subsequent applications for exemptions may be granted at the discretion of the *Director*'s designee upon consideration of the factors listed in this section 66.0713(b).

(c) Application for Exemption. Applications for an exemption shall be submitted to the *Department* in writing, on a form approved by the *Director*, together with a cost-recovery processing fee. The processing fee shall be reviewed annually by the City Manager and adjusted accordingly to ensure full cost-recovery for processing the application for exemption.

(d) If the *Director*'s designee denies an application for an exemption, the *Director*'s designee shall notify the applicant in writing of the reasons for the denial. The denial of an application for an exemption or the revocation of an exemption may be appealed to the *Director*, whose decision shall be final.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0714

Certified Recyclable Materials Collector

(a) *Certified Recyclable Materials Collector.* A *recyclable materials collector* may apply to the *Director* to become a *certified recyclable materials collector*. The certification will be valid for no more than two years after the date it is issued by the *Director*, unless it is renewed in accordance with the *Department*'s renewal procedures prior to its expiration. A certificate may not be transferred, sold, leased, or assigned, in whole or in part, to another *person* without prior *Director* approval. Approval may be obtained by filing an application with the *Director* on a form prescribed by the *Director*. The *Director* shall maintain a current list of *certified recyclable materials collectors* on the *Department*'s website and in other educational materials published by the *Department*.

(b) Application Form and Fee. Applicants for a *recyclable materials collector* certificate shall complete and submit to the *Director* a written application, on a form approved by the *Director*, together with a cost-recovery processing fee. The processing fee shall be reviewed annually by the City Manager and adjusted accordingly to ensure full cost-recovery for processing the application for certification. The application shall include, at a minimum, all of the following:

- (1) name, address, and telephone number of the applicant;
- (2) name, address, and telephone number of an individual contact for the applicant;
- (3) description of each vehicle the applicant will use to provide *recyclable materials collection* services within the City including, but not limited to make, model, serial or vehicle identification number, and license number;
- (4) address where all vehicles and operating equipment used to provide *recyclable materials collection* services within the City will be stored and maintained;
- (5) the applicant's agreement to defend, with counsel to be agreed upon by both parties, indemnify, and hold harmless, City and its agents, officers, servants, and employees from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to City's employees, agents, or officers which arise from, or are connected with, or are caused or claimed to be caused by acts or omissions of the applicant, or its agents, officers or employees, in the performance of the *recyclable materials collection* services, and all costs and expenses of investigating and defending against same; provided, however, that the applicant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the City, its agents, officers, or employees;
- (6) without limiting the indemnification obligation above, the applicant's agreement to obtain and maintain in full force and effect throughout the term of the *recyclable materials collector* certificate, and any extensions or modifications thereof, insurance coverage which meets or exceeds the requirements established by the *Director*; and

(7) A written statement certifying that the applicant has reviewed and will comply with the requirements of this Division and in the certificate.

(c) Insurance. The *Director*, in consultation with the City's Risk Management Department, shall establish minimum reasonable insurance requirements for *Certified Recyclable Materials Collectors*. Simultaneously with the submittal of its application, the applicant shall furnish proof satisfactory to the *Director* that the applicant has obtained the required insurance coverage. Annually on each anniversary of the issuance of the certificate, the applicant shall furnish proof satisfactory to the Director that the applicant maintains at least the minimum required insurance coverage.

(d) Vehicles and Equipment. All vehicles, containers, and other equipment used to provide the *recyclable materials collection* services shall be kept in a clean and well-maintained condition.

(e) Container Signage. Automatic lift containers, bins, roll-offs, and other containers used to *collect* and store *recyclable materials* pending *collection* shall be clearly identified as a *recyclable materials* container, shall display the name and phone number of the *certified recyclable materials collector* to whom the container belongs, and shall display a label, imprinted text, or graphics of the primary *recyclable materials* which shall be deposited in the container and the primary *recyclable materials* which shall not be deposited in that container. Container signage shall comply with the Container and Signage Guidelines established by the *Manager*.

(f) Container Features. Automatic lift containers, bins, roll-offs, and other containers used to *collect* and store *recyclable materials* pending *collection* shall be equipped with close-fitting lids and be leak-proof and rodent-proof, and shall comply with the color standards in the Container and Signage Guidelines established by the *Manager*.

(g) Compliance with Law. *Certified Recyclable Materials Collectors* shall conduct all of their activities in compliance with all applicable federal, state, and local laws, regulations, ordinances, and requirements and shall be responsible for obtaining all applicable permits, licenses, certifications, and registrations.

(h) Application Verification. The *Director* may independently verify any and all statements made or implied in the application or any accompanying documents. The *Director* may also request clarification from the applicant of any such statements or information.

(i) Application Review. In reviewing each application, the *Director* shall take into consideration all components of the application including, but not limited to:

- (1) the ability of the applicant to meet the requirements of this Division and the certificate;
- (2) any history of criminal or civil violations that may compromise the public's interest; and
- (3) the completeness, accuracy, and validity of the application.

(j) Application Determination. After a reasonable review period, the *Director* shall grant or deny the application. If the *Director* fails to grant an application after thirty days from the receipt of a complete application, including accompanying documentation, the applicant may at the applicant's option deem the application denied. If the *Director* denies an application, the *Director* shall notify the applicant in writing of the reasons for the denial.

(k) Certificate Revocation. The *Director* may revoke a certificate if the *Director* determines, after providing notice and an opportunity for a hearing, that a *Certified Recyclable Materials Collector* has violated the provisions in the certificate or any applicable law. If the *Director* revokes a certificate, the *Director* shall notify the applicant in writing of the reasons for the revocation.

(l) Appeal Upon Denial of Application or Revocation of Certificate. Within thirty days after the issuance of a written notice of the denial of an application or the revocation of a certificate, the applicant or *Certified Recyclable Materials Collector* may request in writing to the *Director* that the City Manager review the *Director*'s decision. Within thirty days of the Department's receipt of such a request, a meeting with the City Manager or designee shall be scheduled to review the items cited in the written notice. At that meeting, the applicant or *Certified Recyclable Materials Collector* may provide any additional information in support of their position. Within thirty days of such a meeting, the City Manager will issue a written decision on the application or revocation, which shall include the reasons for the decision. The City Manager's decision shall be final. A copy of the City Manager's written decision shall be provided to the applicant or *Certified Recyclable Materials Collector* and the *Director*.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 11-1-2016 by O-20736 N.S.; effective 12-1-2016.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0715 Self-Haul and Use of Non-Certified Recyclable Materials Collector

- (a) Nothing in this Division shall preclude any *person* from *self-hauling recyclable materials* generated by that *person* to a *recycling facility*.
- (b) The *responsible person* for a *multi-family residential facility, commercial facility, or a mixed use facility* that *self-hauls solid waste* to a *disposal facility* shall comply with the *recycling requirements* in this Division applicable to that *multi-family residential facility, commercial facility, or mixed use facility*.
- (c) Except for occupants of *single family residential facilities*, a *person* who *self-hauls solid waste* to a *disposal facility* and/or *self-hauls recyclable materials* to a *recycling facility* shall complete and submit to the *City* a *recycling hauling report form*, and maintain an annual log documenting the types and quantities of *solid waste* and *recyclable materials* generated and delivered to *recycling facilities, organic waste facilities, solid waste facilities, salvage operations, and other locations*. Each annual log shall cover the time period from January 1 through December 31. Annual logs shall be maintained for a period of three (3) years, shall include delivery receipts and weigh tickets from the facilities that received the *solid waste* and *recyclable materials*, and shall be made available to the *Director* within 15 business days upon request.
- (d) Except for occupants of *single family residential facilities*, a *person* who uses the services of a *recyclable materials collector*, that is neither a *franchisee* nor a *certified recyclable materials collector*, to *collect, transport, and deliver recyclable materials* generated by that *person* to a *recycling facility*, shall complete and submit to the *City* a *recycling hauling report form*, and maintain an annual log documenting the types and quantities of *solid waste* and *recyclable materials* generated and delivered to *recycling facilities, organic waste facilities, solid waste facilities, salvage operations, and other locations*. Each annual log shall cover the time period from January 1 through December 31. Annual logs shall be maintained for a period of three (3) years, shall include delivery receipts and weigh tickets from the facilities that received the *solid waste* and *recyclable materials*, and shall be made available to the *Director* within 15 business days upon request.
- (e) Notwithstanding San Diego Municipal Code section 66.0715(a), the *responsible person* for a *multi-family residential facility, commercial facility, or a mixed use facility* shall subscribe to a minimum level of *recycling service* from a *franchisee* as set forth in the *Container and Signage Guidelines* established by the *Manager*.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0716 Selling or Donating Recyclable Materials

Nothing in this Division shall preclude any *person* from selling at fair market value, for reuse or *recycling*, source-separated *recyclable materials* owned by that *person*, or from donating to another entity, for reuse or *recycling*, source-separated *recyclable materials* owned by that *person*.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

(Amended 11-1-2016 by O-20736 N.S.; effective 12-1-2016.)

§66.0717 Scavenging of Recyclable Materials Prohibited

- (a) No *person* other than the *person* under contract with the generator of the *recyclable materials* to *collect* the *recyclable materials*, shall remove or otherwise interfere with *recyclable materials* which have been placed at a designated *recycling* or *recyclable materials collection* location.
- (b) No *person* shall be guilty of a violation of this section 66.0717 unless the *person* knew or reasonably should have known that the *recyclable materials* were set out for purposes of *collection* by another *person* authorized to *collect* the *recyclable materials*.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

§66.0718 Enforcement

- (a) Authority. The *Director* is authorized to administer and enforce the provisions of Chapter 6, Article 6, Division 7 of this Code. The *Director* or anyone designated by the *Director* to be an *enforcement official* may exercise any enforcement powers as provided in Chapter 1 of this Code.
- (b) Remedies. It is unlawful to violate any provision or requirement of Division 7. The failure to comply with any requirement of Division 7 constitutes a violation of Division 7. Each instance of a violation of Division 7 is a separate offense. Violations of the provisions or requirements of Division 7 may be prosecuted as misdemeanors subject to the penalties provided in section 12.0201 of this Code. The *Director* or designee may seek injunctive relief or civil penalties in the Superior Court pursuant to section 12.0202 of this Code or may pursue any administrative remedy provided in Chapter 1, Article 2, Divisions 3 through 10 inclusive, of this Code.
- (c) Remedies Cumulative. Remedies under section 66.0718 are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(d) Strict liability. Except as otherwise set forth in section 66.0717, violations of Division 7 shall be treated as strict liability offenses regardless of intent.

(Added 11-20-2007 by O-19678 N.S.; effective 12-20-2007.)

§66.0719 Requirements for Commercial Edible Food Generators

(a) Compliance Schedule.

(1) *Tier one commercial edible food generators* shall comply with the requirements of San Diego Municipal Code section 66.0719, effective on June 8, 2022.

(2) *Tier two commercial edible food generators* shall comply with the requirements of San Diego Municipal Code section 66.0719 beginning January 1, 2024, unless a different schedule is established pursuant to title 14, section 18991.3 of the California Code of Regulations, in which case that schedule shall apply.

(3) *Large venue or large event* operators not providing food service, but allowing for food to be provided by others, shall require food facilities operating at the *large venue or large event* to comply with the requirements of San Diego Municipal Code section 66.0719 beginning January 1, 2024.

(b) *Food Recovery Requirements.* *Commercial edible food generators* shall arrange to recover the maximum amount of *edible food* that would otherwise be *disposed* by doing the following:

(1) entering into a contract or written agreement with a *food recovery organization* or *food recovery service* for the *collection* of *edible food* for *food recovery*; or

(2) entering into a contract or written agreement with a *food recovery organization* to accept *edible food* that the *commercial edible food generator* *self-hauls* to the *food recovery organization* for *food recovery*; and

(3) not intentionally spoiling *edible food* capable of being recovered by a *food recovery organization* or *food recovery service*.

(c) *Recordkeeping.* *Commercial edible food generators* shall maintain for a period of three (3) years and make available to the *Director* within 15 business days upon request, the following records:

- (1) A list of each *food recovery service* or *food recovery organization* that *collects* or receives its *edible food*;
- (2) A copy of all contracts or written agreements with *food recovery organizations* and *food recovery services* for the *collection* of its *edible food* for *food recovery*; and
- (3) A record of the following information for each *food recovery service* and *food recovery organization*:
 - (A) the name, address, and contact information of the *food recovery service* or *food recovery organization*;
 - (B) the types of food to be *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization*;
 - (C) the established frequency that food is or will be *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization*; and
 - (D) the quantity of food, measured in pounds recovered per month, *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization* for *food recovery*.

(d) Food Donation. Nothing in this Division shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017.

(e) Exemption. A *commercial edible food generator* shall comply with San Diego Municipal Code section 66.0719 unless the *commercial edible food generator* demonstrates the existence of extraordinary circumstances beyond its control that make such compliance impracticable. If an enforcement action is commenced against a *commercial edible food generator* for noncompliance, the burden of proof shall be upon the *commercial edible food generator* to demonstrate extraordinary circumstances that make such compliance impracticable.

(“*Requirements for Commercial Edible Food Generators*” added 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0720 Requirements for Food Recovery Organizations and Services

(a) *Food Recovery Services.* *Food recovery services that collect edible food directly from commercial edible food generators, under a contract or written agreement for food recovery, shall maintain the following records:*

- (1) The name, address, and contact information for each *commercial edible food generator* from which the *food recovery service collects edible food*;
- (2) The quantity, in pounds per month, of *edible food collected* from each *commercial edible food generator*;
- (3) The quantity, in pounds per month, of *edible food transported* by the *food recovery service* to each *food recovery organization*; and
- (4) The name, address, and contact information for each *food recovery organization* to which the *food recovery service transports edible food for food recovery*.

(b) *Food Recovery Organizations.* *Food recovery organizations that collect or receive edible food directly from commercial edible food generators, under a contract or written agreement for food recovery, shall maintain the following records:*

- (1) The name, address, and contact information for each *commercial edible food generator* from which the *food recovery organization receives edible food*;
- (2) The quantity, in pounds per month, of *edible food received* from each *commercial edible food generator*; and
- (3) The name, address, and contact information for each *food recovery service* from which the *food recovery organization receives edible food for food recovery*.

(c) *Good Samaritan Laws.* *Food recovery organizations and food recovery services shall provide written notice to commercial edible food generators, from which they collect or receive edible food, about California and Federal Good Samaritan Food Donation Act protection.*

(d) Reporting Requirements. *Food recovery services* and *food recovery organizations* that have a contract or written agreement with one or more *commercial edible food generators* for *food recovery* shall submit an annual report to the *Department*, by January 31 of each year, on a form or using a format prescribed by the *Director*. Annual reports shall include the following information:

- (1) *Food recovery services* shall include the information listed in San Diego Municipal Code section 66.0720(a) in their reports, with the exception that quantities shall be reported in pounds per year.
- (2) *Food recovery organizations* shall include the information listed in San Diego Municipal Code section 66.0720(b) in their reports, with the exception that quantities shall be reported in pounds per year.

(“*Requirements for Food Recovery Organizations and Services*” added 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)



U.S. Department
of Transportation

**Federal Highway
Administration**

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NBIPOT

NBIS Oversight Program

Metrics for the Oversight of the National Bridge Inspection Program



May 2017

[ToC](#)

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Introduction

This document provides guidance and direction to FHWA Division Bridge Engineers in performing NBIP compliance reviews of State and Federal agency bridge safety inspection programs. It contains the 23 metrics assessed for compliance reviews under the National Bridge Inspection Standards (NBIS) at 23 CFR Part 650, Subpart C. This document supersedes the prior *Metrics for the Oversight of the National Bridge Inspection Program*, dated April 1, 2013.

The format of this document remains the same as the previous version, with each metric definition and requirements listed on one page, followed by a commentary section for each to clarify the metric requirements. The electronic version includes links to other important resources, indicated by blue text.

Further FHWA guidance available on the [National Bridge Inspection Program](#) (NBIP) SharePoint site will assist reviewers in performing the compliance reviews, primarily [The NBIP Compliance Review Guidance](#) and the [BPM Chapter 2 Draft Final 5-1-2017](#) from the Structure Discipline's Bridge Program Manual. The former contains background and information on the development of the review process and explains the review process generally. The latter document further details how to address the compliance issues determined, such as the requirements of Plans of Corrective Actions, Improvement Plans, and other Non-Compliance issues.

Acronyms and terms used in this document

Compliance Levels	Compliance	C
	Substantial Compliance	SC
	Non-Compliance	NC
	Conditional Compliance	CC
Assessment Levels	Assessment Level	AL
	Minimum Assessment Level	Min-AL
	Intermediate Assessment	Int-AL
	In-Depth Assessment	InD-AL
Other acronyms and terms	AASHTO Manual for Bridge Evaluation	AASHTO Manual or MBE
	SharePoint Metric Assessment Reporting Tool (FHWA NBIP tool)	SMART
	Bridge Safety Engineer (FHWA)	BSE
	Continuing Education Unit	CEU
	Division Bridge staff reviewer	reviewer
	Federal Highway Administration	FHWA
	FHWA Headquarters Bridge Office	HIBS
	Fracture Critical Member	FCM
	Improvement Plan	IP
	Load and Resistance Factor Rating (method)	LRFR
	Load Factor Rating (method)	LF or LFR
	Load Rating Engineer	LRE
	Metric # Assessment Report	MAR#
	National Bridge Inspection Program	NBIP
	National Bridge Inspection Standards	NBIS
	National Bridge Inventory	NBI
	National Highway Institute	NHI
	National Highway System	NHS
	Not to exceed	NTE
	Plan of Action (Scour)	POA
	Plan of Corrective Action	PCA
	Professional Engineer	PE
	Program Manager	PM
	Quality Assurance	QA
	Quality Control	QC
	Specialized Hauling Vehicle	SHV
	State or Federal Agency	State
	Structure Inventory and Appraisal	SI&A
	Team Leader	TL
	Underwater	UW

NBIS Reference: 23 CFR 650.307 – Bridge inspection organization

Criteria

- An organization is in place to inspect, or cause to inspect, all highway bridges on public roads.
- Organizational roles and responsibilities are clearly defined and documented for each of the following aspects of the NBIS: policies and procedures, QC/QA, preparation and maintenance of a bridge inventory, bridge inspections, reports, and load ratings.
- Functions delegated to other agencies are clearly defined and the necessary authority is established to take needed action to ensure NBIS compliance.
- A program manager (PM) is assigned the responsibility for the NBIS.

Compliance Levels

Population: Not applicable.**Compliance (C):** All of the following must be met for C:

- The organization is in place and effective as indicated by assessment of the other 22 metrics.
- Organizational roles and responsibilities are clearly defined and documented.
- Delegated functions are clearly defined with the necessary authority established.
- Responsibility for the NBIS is assigned to a PM.

Substantial Compliance (SC): All of the following must be met for SC:

- The organization is in place and effective as indicated by assessment of the other 22 metrics; minor deficiencies in the organization exist but do not adversely affect the overall effectiveness of the program and are isolated in nature.
- Organizational roles and responsibilities are clearly defined and documented; isolated deficiencies exist but do not adversely affect the overall effectiveness of the program.
- Delegated functions are defined with authority established to resolve safety issues.
- Responsibility for the NBIS is assigned to a PM.

Non-Compliance (NC): One or more SC criteria are not met.**Conditional Compliance (CC):** Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Assess based on previous review results, the reviewer's knowledge and awareness of the bridge inspection program, and from the current assessment of the other metrics.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Verify that responsibility for the NBIS is assigned to a PM, and that documented organizational roles, responsibilities, and delegation procedures exist as applicable.
- If functions are delegated, assess effectiveness of the process through interview of PM and some individuals with delegated functions.
- Assess overall effectiveness of organization through assessment of other metrics and interview of PM.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – review in accordance with national direction and guidelines.

General: This metric determines if the State or Federal Agency (State) has an appropriate organization in place, and if the organization is effective as indicated in part by assessment of the other metrics. Therefore, this metric may not be fully assessed until the remaining metrics are fully assessed.

Phrases in italics below are repeated from the metric language, with further explanation provided.

Criteria: The phrase '*Functions delegated to other agencies are clearly defined*' means each State office, District office, contractor, or other entity must be given clear direction for assigned or delegated roles or tasks. For example, a State district office with a delegated PM and inspection teams must understand the extent of their duties and how they are communicated and relate to the main PM in the central office.

The phrase '*...the necessary authority is established to take needed action to ensure NBIS compliance*' means the organization must have agreements with other owners to establish the proper authority necessary to ensure the NBIS is carried out correctly. The State is highly encouraged to establish such agreements in writing. An example of inadequate authority is a State law that prevents proper posting of bridges; this would be considered a compliance issue for Metric 1.

Compliance levels: The term *Safety issues* are those related to bridge closure, posting, critical findings, and overdue inspections. For C, the phrase '*necessary authority established*' is inclusive of these safety issues and all other aspects of delegated functions. For SC, the '*authority established*' for these safety issues is a minimum.

If other metrics are non-compliant, conduct a careful evaluation to determine whether those non-compliance issues stem from deficiencies in the organizational structure itself. If so, then a finding of SC or NC is appropriate for this metric. This is not directly related to the number of metrics in NC or CC, but whether issues are caused by deficiencies in the organization. Another consideration is if existing PCAs are on schedule, and if not, whether the reason stems from organizational issues.

When inspection staff is not made aware of key components of organizational roles and responsibilities, this can result in inconsistencies in application of QA procedures. In such cases the metric should be considered SC due to organizational deficiency.

Another example of an organization deficiency is when a PM is assigned the responsibility for the NBIS, but with limited authority to ensure delegated agency functions are carried out due to conflicting local laws or policies. The PM has implemented an otherwise good policy to place load posting signs within a specified number of days of a load rating determination, but the bridge owner refuses to post despite repeated attempts by the PM to convince the bridge owner, and the PM is prohibited from posting the bridge directly. In this case the metric is considered NC due to the safety implications.

Assessment levels: At the Min-AL, maintain knowledge and awareness of the programs areas each year to a reasonable degree, through discussion with the PM or others, and remain aware of changes in key personnel or program policies that may affect each metric. The knowledge and awareness from the Min-AL informs whether to perform further review at the Int-AL or InD-AL.

At the Int-AL, consider interviews with individuals who have been delegated PM functions for one or more agencies, districts, consultants, etc., represented in those bridges selected for field review under Metric #12.

Background/ changes for PY 2018: Minor clarifications to wording of metric and addition of commentary to improve clarity. In-D updated for this and all metrics to provide more flexibility to Divisions in further assessment of the metric as necessary.

NBIS Reference: 23 CFR 650.309 (a) – Program Manager and 650.313 (g) QC/QA

Criteria	<p>The Program Manager (PM) must have the following qualifications:</p> <ul style="list-style-type: none">• Professional engineer registration or 10 years of bridge inspection experience;• Successful completion of FHWA approved comprehensive bridge inspection training; and• Completion of periodic bridge inspection refresher training according to State policy.
	<p>Population: The individual designated as PM.</p>
Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none">• The PM has the required qualifications.• The PM has completed periodic bridge inspection refresher training according to State policy.
	<p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none">• The PM has the required qualifications, except a newly designated PM has not completed comprehensive bridge inspection training, but is scheduled to do so within 6 months after selection to the PM position.• The PM has not completed periodic refresher training according to State policy, but is scheduled to do so within the next 12 months.
	<p>Non-Compliance (NC): One or more SC criteria are not met.</p>
	<p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
Assessment Levels (AL)	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none">• Monitor PCA if in effect.• Assess based on previous review results, and on the reviewer's knowledge and awareness of the PM's qualifications. <p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none">• Verify PM's qualifications through interview of PM or PM's direct supervisor(s).• Review PM's qualification documentation. <p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none">• Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.• National InD-AL – conduct in accordance with national direction and guidelines.

General: This metric evaluates the qualifications of the designated State PM, not any other staff members that may have delegated PM duties. The designated PM is ultimately responsible for all aspects of the Program, even if some duties are delegated to districts, consultants, local agencies, or others.

Compliance levels: The term *designated PM* refers to either an acting assignment or a permanent assignment of an individual to the position.

If a PM or an acting PM is qualified, but there are issues relating to lack of overall responsibility, sufficient authority, or effectiveness, this affects the compliance determination for Metric 1 but not Metric 2.

Assessment levels: If a new PM is designated, perform an Int-AL review in the same year if possible, or in the subsequent year if not.

Background/ changes for PY 2018: *Minor changes to wording of metric to improve clarity. Int-AL updated to require review the documentation of PM qualifications and to require Int-AL when a new PM is identified.*

NBIS Reference: 23 CFR 650.309 (b) – Team leader(s) and 650.313 (g) QC/QA**Criteria**

Each Team Leader (TL) must have at least one of the following qualifications:

- PE registration
- Five years of bridge inspection experience
- NICET Level III or IV Bridge Safety Inspector certification
- Bachelor degree in engineering from ABET accredited college or university, a passing score on the Fundamentals of Engineering Exam, and two years of bridge inspection experience.
- Associate Degree in engineering from ABET accredited college or university and four-years of bridge inspection experience.

In addition to the above qualifications, TLs must have the following training:

- Successful completion of FHWA approved comprehensive bridge inspection training; and
- Completion of periodic bridge inspection refresher training according to State policy.

Population: All TLs for all inspection types for inspections performed from January 1 of the calendar year prior to the beginning of the review year.

Compliance Levels

Compliance (C): All of the following must be met for C:

- All TLs have the required qualifications.
- All TLs have completed periodic bridge inspection refresher training according to State policy.

Substantial Compliance (SC): All of the following must be met for SC:

- All TLs have the required qualifications.
- One or more TLs have not completed periodic bridge inspection refresher training according to State policy.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Assess based on previous review results, and on the reviewer's knowledge and awareness of process for monitoring TL qualifications.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Randomly sample TLs to review qualifications, including dates of comprehensive and refresher training.
- Interview the PM or supervisor to verify qualifications when documentation of qualifications is inconclusive.

In-Depth Assessment (InD-AL): Perform one of the following

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

General: This metric verifies that all team leaders listed for all types of inspections which require a TL during the identified time period are qualified. Metric #12 then verifies that TLs are on site during each bridge inspection, and that the TLs noted in the inspection reports reviewed are included on the list developed for Metric #3.

Criteria: For additional guidance on what constitutes bridge inspection experience, see the *Questions and Answers on the National Bridge Inspection Standards 23 CFR 650 Subpart C*, located at <http://www.fhwa.dot.gov/bridge/nbis/index.cfm>.

Population: This metric applies to all TLs for initial, routine, in-depth, fracture critical member, and underwater inspections. The population is limited to TLs that have inspected bridges from January 1 of the calendar year prior to the start of the review year (example: for the PY18 review that starts 4/1/17, include all TLs that have inspected since 1/1/16). This will minimize overlap from one review year to the next.

Compliance levels: Refresher training must be scheduled on a periodic basis. This schedule should be documented, but it does not affect compliance if it is not. If any TL reviewed has not taken refresher training in accordance with State policy, this is considered SC for this metric, notwithstanding other findings. If a TL has never taken refresher training and none is planned, this is also considered SC for this metric, and should be further assessed under Metric 20, pursuant to 23 CFR 650.313(g), which requires periodic refresher training. Such training is not specifically required under 23 CFR 650.309.

Assessment levels: For the Int-AL, use the following procedure to review TL qualifications:

1. If a list of all TLs is available, review qualifications of randomly sampled TLs from the list.
2. If no list is available, refer to the sampling tool's list of sampled bridges for Metrics 13 – 19, and 21. From this sample, in the order of the random numbers already generated, obtain the name of the TL for each bridge inspection until a sample of 19 unique TLs is obtained. If this exceeds the total number of team leaders in the State, review all team leaders.

Because the NBIS does not require a “list” of TLs, the lack of a list does not affect the compliance status for Metric 3. However, in such situations, review documented procedures used to assure that the appropriate inspection qualifications are being met.

If no effective process exists to ensure that all TLs are qualified, but the actual TLs assessed in this metric *are* qualified, this finding should be considered in the compliance determination of Metric 1, not Metric 3. Likewise, if the TLs assessed in this metric are *not* qualified and the State does not have a process to monitor TL qualifications, this finding should be considered in determining the compliance determination for both Metric 1 and Metric 3.

If one or more active TLs are found to be unqualified, the finding should be addressed. First, the PM should ensure that the unqualified individual(s) ceases TL duties. Then work with the PM to develop a plan to ensure that past inspections by the individual(s) were completed in a quality manner, through review of those inspection findings or re-inspections if necessary. The plan should also rectify any underlying process issues that cause unqualified personnel to be assigned TL duties.

If the unqualified TL was found outside the metric process, the finding should also be addressed as described above. If found when Metric 3 was scheduled for a Min-AL, then a review at the Int-AL should be scheduled for that review year if possible, or the following review year at the latest, to

more fully assess the issue. An unqualified TL is considered a high-risk safety issue, so this finding should be applied directly to the compliance level of this metric, and is considered NC. If the underlying issue is resolved by Dec 31, a compliance determination of SC or higher would be appropriate, depending on other issues if any.

If certificates of training cannot be produced and the training was provided by NHI, transcripts can be requested from NHI for courses completed within the past 7 years. Each student's transcript will show the courses attended and the number of CEUs earned – NHI does not print a new copy of a certificate. Send requests for transcripts to NHIRegistrar@dot.gov.

Verify professional engineer registration through the State's PE board website.

Background/ changes for PY 2018: Minor improvements to wording of metric to improve clarity. Int-AL updated to require interviews of some TLs.

NBIS Reference: 23 CFR 650.309 (c) – Individual responsible for load ratings

Criteria

The Load Rating Engineer has overall responsibility for load rating of bridges and is a registered professional engineer.

Compliance Levels

Population: The individual charged with overall responsibility for load rating bridges.

Compliance (C):

- The LRE is a registered professional engineer.
- The LRE has overall responsibility for load rating of bridges.

Substantial Compliance (SC):

- The LRE is a registered professional engineer.
- The LRE does not have total overall responsibility for load rating of bridges, or the degree of responsibility is not clear.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Assess based on previous review results, and on the reviewer's knowledge and awareness of the LRE qualifications and responsibilities.

Intermediate Assessment (Int-AL): Perform the following:

- Verify qualifications and responsibilities of the LRE through interview of LRE or supervisor(s).
- Review LRE's qualification documentation.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

General: This metric verifies that the individual designated as the LRE is a registered professional engineer and has overall responsibility for load rating of bridges.

The LRE may be the same individual as the Program Manager and should be actively engaged in determining and communicating load rating policy, load rating QC/QA procedures, etc. Many of the duties of the LRE may be delegated to one or more individuals at lower levels or other agencies, but the overall responsibility for load rating of all bridges in the State ultimately resides with the LRE.

Compliance levels: The phrase *overall responsibility for load rating bridges* does not mean that the individual must complete or review all load ratings directly, but rather that the individual has final responsibility for establishing procedures and guidance for the load rating process in the State, including ensuring the completion of load ratings by local agencies.

A compliance determination of SC is appropriate when the LRE is a PE, but the review reveals the LRE does not have total overall responsibility for load rating of bridges, or the degree of responsibility is not clear. This can occur, for example, if an individual with a PE is designated as the LRE but does not have documented responsibility or have authority to establish necessary policies and practices.

Assessment levels: If a new LRE is designated, perform an Int-AL review in the same year if possible, or in the subsequent year if not.

Background/ changes for PY 2018: *Substantial Compliance criteria was added for this metric, to account for situations where the LRE's level of responsibility is not completely clear. The Int-AL was modified to require review of qualifications by both interviews and reviewing documentation. Minor improvements to wording of metric to improve clarity.*

NBIS Reference: 23 CFR 650.309 (d) – Underwater Bridge Inspection Diver**Criteria**

Underwater bridge inspection divers must have successfully completed at least one of the following training courses:

- FHWA approved comprehensive bridge inspection training course
- FHWA approved underwater bridge inspection diver training course

Population: All inspection divers inspecting those bridges from January 1 of the calendar year prior to the beginning of the review year.

Compliance (C): The following must be met for C:

- All inspection divers have successfully completed FHWA approved comprehensive bridge inspection training or FHWA approved underwater bridge inspection diver training.

Substantial Compliance (SC):

- All divers listed in the inspection report are qualified, but it is unclear whether all inspection divers were listed due to inadequate documentation of all divers participating in inspections.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Compliance Levels

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Assess based on previous review results, and on the reviewer's knowledge and awareness of process for monitoring underwater bridge inspection diver qualifications.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Randomly sample divers to review documentation of successful completion of required training.
- Interview PM or supervisor if necessary to verify successful completion of required training when documentation is inconclusive.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

Assessment Levels (AL)

General: This metric assesses the qualifications of all underwater bridge inspection divers. The purpose is not to assess all requirements of the team leader; this is done in Metric #3.

Compliance levels: Even though all inspection divers must have completed an FHWA approved comprehensive bridge inspection training course or other FHWA approved underwater diver bridge inspection training course, divers are not required to complete refresher training, unless a diver is also functioning as the team leader for the inspection.

Any diver responsible for inspection of any element must have completed the required training. If only one diver for each inspection meets established criteria, and this diver visually and/or tactiley inspects all underwater components as the primary or only inspector, this is considered a compliance level of C. Additional divers providing support roles only, such as 'tender' divers, need not complete the training.

For SC, any divers listed in the inspection report or other inspection records must meet required qualifications, but there may be cases where all divers may not be listed. Thus, it may be unclear whether every inspection diver that participated in the inspection met the qualifications.

Assessment levels: For the Int-AL, use the following procedure for reviewing diver qualifications:

1. If a list of all divers is available, review qualifications for randomly sampled divers on the list.
2. If no list is available, refer to the Sampling Tool. Use the Metric 17 sample, in the order of the generated random numbers, to obtain the name of the divers for each UW inspection until the required sample size of unique TLs is developed.

Because the NBIS does not require a "list" of TLs and/or underwater bridge inspection divers, the lack of a list does not affect the compliance status for Metric 5. However, in such situations, review documented procedures used to assure that the appropriate inspection qualifications are being met.

If no effective process exists to ensure that all divers are qualified, but the actual divers assessed in this metric are qualified, this finding should be considered in the compliance determination of Metric 1, but not affect the determination for Metric 5.

If certificates of training cannot be produced and the training was provided by NHI, transcripts can be requested from NHI for courses completed within the past 7 years. Each student's transcript will show the courses attended and the number of CEUs earned – NHI does not print a new copy of a certificate. Send request for transcripts to NHIREgistrar@dot.gov.

Background/ changes for PY 2018: *Substantial Compliance criteria was added to account for situations where the qualifications of all divers participating in an inspection are not completely clear. Int-AL updated to include interviews of PM or supervisor if necessary to verify successful completion of required training. Minor improvements to wording of metric to improve clarity.*

NBIS Reference: 23 CFR 650.311 (a) – Routine inspections**Criteria**

- Routine inspections are performed at regular intervals not to exceed (NTE) 24 months, or NTE 48 months when adhering to FHWA approved criteria.

Population: Lower risk bridges for the entire State that are open to traffic, and whose inspection dates have changed since the previous year's NBI submission or are overdue.

Compliance (C): All of the following must be met for C:

- All bridges are inspected within the required NTE 24 or 48-month interval, as applicable, unless documented unusual circumstances have caused a 1 month delay for any inspections.
- All bridges on the NTE 48-month interval meet the FHWA approved criteria.

Substantial Compliance (SC): All of the following must be met for SC:

- At least 90% of bridges are inspected within the required NTE 24 or 48-month interval plus 1 month, as applicable.
- All bridges are inspected within the required interval plus 4 months.
- At least 95% of the bridges on the NTE 48-month interval meet the FHWA approved criteria.
- Minor deficiencies exist in the documentation process for 1-month inspection delays, or not all delays are properly documented.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Generate MAR6 within 30 days of NBI data acceptance and review to resolve overdue bridge inspections – notify the State of overdue inspections, track completion of inspections, and document result on MAR6.
- Review MAR6 Summary for indication of any new deficiencies.
- Assess based on MAR6 Snapshot and previous review results, and on the reviewer's knowledge and awareness.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Review MAR6 and resolve data for inspections that exceeded the required interval to the extent necessary to assure that the compliance status shown is correct.
- Review a sample of bridges coded for 48-month intervals from the MAR6 list of bridges, to verify they meet the FHWA approved criteria for extended intervals in the State.
- If appropriate, perform a supplemental MAR6 analysis for current year inspections using additional data obtained from the State.
- If 1-month inspection delays exist, review procedures to ensure there is a process to document unusual circumstances and that the process is being followed.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

Assessment Levels (AL)

General: The commentary for Metric 6 also applies to Metrics 7-10, except where noted.

The frequency metrics determine if bridges are being inspected per required intervals, including following FHWA approved criteria for extended intervals, as appropriate. Due to the large numbers of inspections completed each year and the number of scheduling issues that can occur, certain tolerances for each compliance level are defined in each metric.

Metrics 6 & 7 reflect low risk and high risk Routine inspections, Metrics 8 & 9 reflect low risk and high risk Underwater inspections, and Metric 10 reflects FCM inspections. FCM inspections are different from Routine inspections, and although some bridges may be considered in both metrics, the assessment is of two different inspection types. This occurs when, for example, a truss bridge is given a Routine inspection separately from a FCM inspection.

The term *overdue* means the inspection was due prior to the NBI submission date, but a new inspection date was not submitted. This typically occurs either when an inspection was done but was not recorded in the inventory data before submission, or that the inspection has not yet been done. An overdue inspection, until resolved, is considered a high-risk safety issue.

A *delinquent* inspection differs from an overdue inspection in that the inspection was completed but exceeded the required interval.

The analysis includes the 90/180 day NBIS allowance for entering data and an additional 30 days for compiling the submittal.

Population: Risk classification for Metric 6 & 7 is based on the bridge's super/substructure condition, load restriction, and scour vulnerability. NBI Items 41, 63, 64, and 70 determine load restriction risk, which helps identify posted bridges that do not require load restriction and therefore are lower risk. Lower risk criteria for Metric 6:

- NBI Item 59 and 60, or $62 > 4$ and
- Either:
 - NBI Item 70 = 5 and Item 63 \neq 5; or
 - Item 63 = 5 and Item 70 = 5 and Item 41 = A, D, or E
- And Item 113 = 4, 5, 7, 8, 9, N

Bridges adhering to FHWA approved extended frequency criteria are assumed to be lower risk.

The population of all frequency metrics is defined to eliminate review of the same inspection interval for the same bridge in successive review years. It also includes bridges indicated by the submitted data to be overdue for inspection.

Compliance levels: Compliance levels are based on several cumulative thresholds, which allow consideration of unusual circumstances that can make the completion of inspections within the required month impractical or inefficient. The percentages shown in the metric criteria section of the MAR tab represent the compliance level thresholds and are measured when performing an Int-AL.

As identified in the preamble of the NBIS regulation, severe weather, concern for inspector safety, concern for inspection quality, the need to optimize scheduling with other bridges, or other unique situations may be justifiable cause to push the inspection interval into an additional month (25th/49th or 61st/73rd). Such circumstances must be documented. These thresholds also allow for flexibility so that structures previously inspected earlier than scheduled can get back on the original schedule.

In unusual circumstances that will delay an inspection or group of inspections for more than 1 month, an assessment of C can be made if the Division has provided prior approval with concurrence from

the BSE. Prior to the inspection being delinquent, the State can request FHWA HQ to approve a time extension. If the request is approved, an assessment of C is proper if the bridge(s) is inspected by target date in the extension. Reasons for an extension include but are not limited to: permanently moving a small number of scheduled inspections of low risk bridges to better coincide with existing inspections in the same geographic area or a one-time schedule readjustment due to an unusually large or widespread natural disaster requiring a shift in existing resources.

For C (Metric 6 only), all bridges coded for extended intervals must meet the criteria approved by FHWA for that specific State. At the Int-AL, review and compare the approved criteria with the related data for bridges currently coded for 48 months.

For SC (Metric 6 only), the 5% tolerance for bridges coded for 48 month intervals is intended for those formerly meeting the specific criteria, but transitioning to a 24-month interval due to a recent change in condition or other criterion, which result in SC.

Note that for SC, a 50% threshold is included in the MAR Metric Criteria for the NTE interval. This threshold conveys an expectation that at least half of inspections should be completed on time. Failure to meet the 50% threshold should not by itself result in a non-compliance determination; it may indicate other issues for which further investigation is needed.

Assessment levels:

Min-AL: Resolve all overdue inspections as soon as possible after the NBI data is accepted and the MAR is generated. In this case, resolve means to determine if the overdue inspection has not been done or is only a data issue and take the appropriate action(s) that follow.

If the overdue inspection is a data issue, enter the appropriate override code with an explanation on the MAR data tab.

If a bridge inspection is not completed, take the following actions:

- Notify the State as soon as possible, and work with them to ensure inspection as soon as possible (within 30 days of notification is suggested). If the State does not take expedited action to perform the inspection, discuss the issue with the BSE.
- Track the date that the bridge is inspected
- Enter the appropriate override code with an explanation on the MAR data tab.
- Inform the PM that the underlying issue causing the overdue inspections must be corrected as soon as possible.

Depending on timing and the severity or extent of the underlying issue, the metric should be assessed at the Int-AL, preferably in the current review year, or at the latest in the next year, to determine the full extent of any issues related to the metric.

Document in the FSM the number of overdue bridges resolved, and any actions taken by the State to correct the underlying issue(s).

If any underlying issues are not resolved by December 31, assess as NC. If overdue inspections resulting from rare and isolated situations are completed in a timely manner, with BSE concurrence, and the underlying issues are resolved, the previous year's compliance determination applies, unless additional issues warrant a lower compliance level, or a lack of additional issues and a completed PCA lead to a higher compliance level.

At the Min-AL, compare the MAR summary tab percentages inspected within each threshold to the previous year's levels to determine if any negative trends indicate possible new compliance issues.

The MAR summary tab percentages can be shown by pressing the Toggle Assessment Level button to toggle to the Int-AL/InD-AL. Depending on the degree of the apparent compliance issue (based on unresolved summary data), a review at the Int-AL should be scheduled for either the current or the following review year.

Int-AL: Resolve all Overdue inspections as mentioned under the Min-AL, and resolve any other possible compliance deficiencies shown, such as inspections that exceeded the required NTE interval plus 1 month, until it is determined that the MAR compliance snapshot is correct. For further information on resolution of the MAR, see the NBIP – MAR Resolution Guidance.

When warranted, the review can include obtaining the most recent inspection data from the State and performing a supplemental interval analysis. Such analysis should be conducted after consultation with the State and if there is a reasonable chance that current inspections will reveal a higher level of compliance.

To perform a supplemental analysis, generate a new MAR using a current NBI data file (NBI submission file format) as the Most Recent data and the April NBI submission file as the Previous data. The supplemental analysis must cover at least 6 consecutive months or 25% of the population being reviewed, so the supplemental analysis should be performed with a current NBI data file obtained in October or later of the review year. The BSE can assist if such an analysis is needed.

For Metric 6 only, in rare and isolated situations, a small number of bridge inspections may exceed the required interval plus 4 months but no more than 12 months. If these are the only inspections that cause a finding of NC, with the concurrence of the BSE, the reviewer may assess the metric as SC and document the resolution in the MAR and FSM accordingly. Below are some examples to demonstrate this exception:

- An owner has several bridges on a 48-month frequency where the condition worsened, requiring the frequency to be reset to 24 months. The new frequency was recoded, but for two bridges the change was not reflected in the TL's schedule until the following year. Consequently, these bridges were inspected in the 36th month. This is an acceptable, isolated occurrence.
- An owner has a bridge that has been inspected late for 2 cycles in a row, by 7 months and 5 months respectively. This is not an acceptable isolated occurrence.

Metric Assessment Report (MAR): The MAR is generated using the [NBIP MARGen tool](#) that is downloaded from the [NBIP SharePoint site](#). The MAR is typically based on the most recent and previous April NBI submissions.

Depending on the summary result, the review may require detailed examination and resolution or overriding of the data, as explained in the MAR instructions on the SharePoint site. The MAR is based on NBI data, which has some known limitations for determining compliance. A few examples include border bridges where the other State has inspection responsibility, when the time frame for processing and submitting NBI data causes some inspection data to be omitted from the submittal, or situations when the bridge has been replaced or work has been performed that changes the inspection schedule.

Background/changes for PY2018: *This metric was updated at the Min AL to no longer require resolution of all possible deficiencies identified in the MAR; only resolution of inspections identified*

as overdue is expected. The Int-AL was modified to require the resolution of all possible deficiencies or until the compliance determination is confirmed, previously required at the Min-AL.

NBIS Reference: 23 CFR 650.311 (a) – Routine inspections**Criteria**

- Routine inspections are performed at regular intervals not to exceed (NTE) 24 months.

Population: Higher risk bridges for the entire State that are open to traffic, and whose inspection dates have changed since the previous year's NBI submission or are overdue.**Compliance Levels****Compliance (C):** All of the following must be met for C:

- All bridges are inspected within the required NTE 24-month interval, unless documented unusual circumstances have caused a 1-month delay for any inspections.

Substantial Compliance (SC): All of the following must be met for SC:

- At least 95% of bridges are inspected within the required NTE 24 interval plus 1 month.
- 100% of bridges are inspected within the required interval plus 4 months.
- Minor deficiencies exist in the documentation process for 1-month inspection delays, or not all delays are properly documented.

Non-Compliance (NC): One or more SC criteria not met.**Conditional Compliance (CC):** Adhering to FHWA approved plan of corrective action (PCA).**Assessment Levels (AL)****Minimum Assessment (Min-AL):** Perform all of the following:

- Monitor PCA if in effect.
- Generate MAR7 within 30 days of NBI data acceptance and review to resolve overdue bridge inspections – notify the State of overdue inspections, track completion, and document result on MAR7.
- Review MAR7 Summary for indication of any new deficiencies.
- Assess based on MAR7 Snapshot and previous review results, and on the reviewer's knowledge and awareness.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Review MAR7 and resolve data to the extent necessary to assure that the compliance status shown is correct.
- If appropriate, perform a supplemental MAR7 analysis for current year inspections using additional data obtained from the State.
- If 1-month inspection delays exist, review procedures to ensure there is a process to document unusual circumstances and that the process is being followed.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

General: The commentary for Metric 6 applies to this metric, except where noted.

Population: Risk classification for Metric 7 is based on the bridge's super/substructure condition, load restriction, and scour vulnerability. NBI Items 41, 63, 64, and 70 are used to determine load restriction risk, which helps identify posted bridges that do not require load restriction, and therefore are lower risk. Higher risk criteria for Metric 7:

- NBI Item 59 or 60, or $62 < 5$ or
- NBI Item $70 < 5$ or
- NBI Item $63=5$ and Item $70=5$ and Item $41=B, P, \text{ or } R$ or
- Item $113 = 0, 1, 2, 3, 6, T \text{ or } U$

Bridges adhering to FHWA approved extended frequency criteria are assumed to be lower risk.

Background/changes for PY2018: *This metric was updated at the Min-AL to no longer require resolution of all possible deficiencies identified in the MAR, only resolution of inspections identified as overdue. The Int-AL was modified to require the resolution of all possible deficiencies or until the compliance determination is confirmed, previously required at the Min-AL.*

NBIS Reference: 23 CFR 650.311 (b) – Underwater (UW) inspections**Criteria**

- UW bridge inspections are performed at regular intervals not to exceed (NTE) 60-months, or NTE 72-months when adhering to FHWA approved UW criteria.

Population: Lower risk bridges requiring UW inspections for the entire state that are open to traffic, with inspection dates changed since previous year's NBI submission or are overdue.

Compliance Levels

Compliance (C): All of the following must be met for C:

- All UW inspections are done within the required NTE 60- or 72-month interval, as applicable, unless documented unusual circumstances have caused a 1-month delay for any inspections.
- All bridges on the NTE 72-month interval, meet the FHWA approved criteria.

Substantial Compliance (SC): All of the following must be met for SC:

- At least 90% of UW inspections are done within the required NTE 60 or 72-month interval plus 1 month, as applicable.
- 100% of UW inspections are done within the required interval plus 4 months.
- At least 95% of UW inspections on NTE 72-month interval meet the FHWA approved criteria.
- Minor deficiencies exist in the documentation process for 1 month UW inspections delays, or not all delays are properly documented.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Generate MAR8 within 30 days of NBI data acceptance and review to resolve overdue UW inspections – notify the State of overdue inspections, track completion, and document result on MAR8.
- Review MAR8 Summary for indication of any new deficiencies.
- Assess based on MAR8 Snapshot and previous review results, and on the reviewer's knowledge and awareness.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Review MAR8 and resolve data to the extent necessary to assure that the compliance status shown is correct.
- Review a sample of bridges coded for 72 month intervals from the MAR8 list of bridges, to verify they meet the FHWA approved criteria for extended intervals in the State.
- If appropriate, perform a supplemental MAR8 analysis for current year UW inspections using additional data obtained from the State.
- If 1-month inspection delays exist, review procedures to ensure there is a process to document unusual circumstances and that the process is being followed.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

General: The commentary for Metric 6 applies to this metric, except where noted.

Population: Risk classification for Metric 8 is based on substructure/culvert condition and scour vulnerability. Lower risk criteria for Metric 8:

- 92B = Y
- Item 60 or 62 > 4 and
- Item 113 = 4, 5, 7, 8, or 9

Bridges adhering to FHWA approved extended frequency criteria are assumed to be lower risk.

Compliance levels: For C (Metric 8 only), all bridges coded for extended intervals must meet the criteria approved by FHWA for that specific State. At the Int-AL, review and compare the approved criteria with the related data for bridges currently coded for 72 months.

For SC (Metric 8 only), the 5% tolerance for bridges coded for 72-month intervals is intended for those formerly meeting the specific criteria, but transitioning to a 60-month interval due to a recent change in condition or other criterion, which result in SC.

Assessment levels: For Metric 8 only, in rare situations, a small number of bridge inspections may exceed the required interval plus 4 months but no more than 12 months. If these are the only inspections that cause a finding of NC, with the concurrence of the BSE, the reviewer may assess the metric as SC and document the resolution in the MAR and FSM accordingly. Below is an example to demonstrate this exception:

- An owner has a bridge that is due for an underwater inspection and contracts with a qualified diver to inspect the bridge, but illness of the diver prevents the inspection from taking place on time. By the time the diver recovers, winter conditions further delay the inspection until spring, resulting in it being 8 months late. This would be considered an allowable isolated occurrence.

Background/changes for PY2018: *This metric was updated at the Min-AL to no longer require resolution of all possible deficiencies identified in the MAR, only resolution of inspections identified as overdue. The Int-AL was modified to require the resolution of all possible deficiencies or until the compliance determination is confirmed, previously required at the Min-AL.*

NBIS Reference: 23 CFR 650.311 (b) – Underwater (UW) inspections**Criteria**

- UW inspections are performed at regular intervals not to exceed (NTE) 60 months.

Population: Higher risk bridges requiring UW inspections for the entire state that are open to traffic, with inspection dates changed since previous year's NBI submission or are overdue.

Compliance Levels

Compliance (C): All of the following must be met for C:

- All UW inspections are performed within the required NTE 60-month interval, unless documented unusual circumstances have caused a 1-month delay for any UW inspections.

Substantial Compliance (SC): All of the following must be met for SC:

- At least 95% of UW inspections are performed within the required NTE 60 interval plus 1 month.
- 100% of UW inspections are performed within the required interval plus 4 months.
- Minor deficiencies exist in the documentation process for 1-month inspection delays, or not all delays are properly documented.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Generate MAR9 within 30 days of NBI data acceptance and review to resolve overdue UW inspections – notify the State of overdue inspections, track completion, and document result on MAR9.
- Review MAR9 Summary for indication of any new deficiencies.
- Assess based on MAR9 Snapshot and previous review results, and on the reviewer's knowledge and awareness.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Review MAR9 and resolve data to the extent necessary to assure that the compliance status shown is correct.
- If appropriate, perform a supplemental MAR9 analysis for current year UW inspections using additional data obtained from the State.
- If 1-month inspection delays exist, review procedures to ensure there is a process to document unusual circumstances and that the process is being followed.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

General: The commentary for Metric 6 applies to this metric, except where noted.

Population: Risk classification for Metric 9 is based on substructure/culvert condition and scour vulnerability. Higher risk criteria for Metric 9:

- 92B = Y
- NBI Item 60 or 62 < 5 or
- Item 113 = 0, 1, 2, 3, 6, T or U

Bridges adhering to FHWA approved extended frequency criteria are assumed to be lower risk.

Background/changes for PY2018: *This metric was updated at the Min-AL to no longer require resolution of all possible deficiencies identified in the MAR, only resolution of inspections identified as overdue. The Int-AL was modified to require the resolution of all possible deficiencies or until the compliance determination is confirmed, previously required at the Min-AL.*

NBIS Reference: 23 CFR 650.311 (c) – Fracture critical member (FCM)**Criteria**

- FCMs are inspected at regular intervals not to exceed (NTE) 24 months.

Population: Bridges that require FCM inspections for the entire State, are open to traffic, and whose FCM inspection dates have changed since the previous year's NBI submission or are overdue.

Compliance Levels

Compliance (C): All of the following must be met for C:

- All FCM inspections are performed within the required NTE 24-month interval, unless documented unusual circumstances have caused a 1month delay for any FCM inspections.

Substantial Compliance (SC): All of the following must be met for SC:

- At least 95% of FCM inspections are performed within the required NTE 24 interval plus 1 month.
- 100% of FCM inspections are performed within the required interval plus 4 months.
- Minor deficiencies exist in the documentation process for 1-month inspection delays, or not all delays are properly documented.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Generate MAR10 within 30 days of NBI data acceptance and review to resolve overdue bridge inspections – notify the State of overdue inspections, track completion, and document result on MAR10.
- Review MAR10 Summary for indication of any new deficiencies.
- Assess based on MAR10 Snapshot and previous review results, and on the reviewer's knowledge and awareness.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Review MAR10 and resolve data to the extent necessary to assure that the compliance status shown is correct.
- If appropriate, perform a supplemental MAR10 analysis for current year inspections using additional data obtained from the State.
- If 1-month inspection delays exist, review procedures to ensure there is a process to document unusual circumstances and that the process is being followed.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

General: The commentary for Metric 6 applies to this metric, except where noted.

FCM inspections are different from Routine inspections, and although some bridges may be considered in both metrics, the assessment is of two different inspection types.

Population: Metric 10 is based on bridges identified as requiring a fracture critical member inspection. Criteria for Metric 10:

- Item 92A = Y

Background/changes for PY2018: *This metric was updated at the Min-AL to no longer require resolution of all possible deficiencies identified in the MAR, only resolution of inspections identified as overdue. The Int-AL was modified to require the resolution of all possible deficiencies or until the compliance determination is confirmed, previously required at the Min-AL.*

NBIS Reference: 23 CFR 650.311 (a)(2), (b)(2), (c)2, (d) – Frequency criteria

Criteria	<p>Criteria is established to determine level of inspection, and frequency for all of the following inspection types where appropriate:</p> <ul style="list-style-type: none">○ Routine inspections – for less than 24-month intervals○ FCM inspections – for less than 24-month intervals○ Underwater inspections – for less than 60-month intervals○ Damage inspections○ In-depth inspections○ Special inspections
	<p>Population: Bridges meeting established criteria for the entire State, are open to traffic, and whose inspection dates have changed since the previous year's NBI submission or are overdue.</p>
Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none">• All level of inspection and frequency criteria are established.• All bridges indicate the appropriate level of inspection and frequency in accordance with the established criteria. <p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none">• All level of inspection and frequency criteria are established.• Records for less than all bridges indicate the appropriate level of inspection and frequency in accordance with the established criteria. <p>Non-Compliance (NC): One or more SC criteria not met.</p> <p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
Assessment Levels (AL)	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none">• Monitor PCA if in effect.• Review MAR11 Summary for indication of any new deficiencies.• Assess based on previous review results, and the reviewer's knowledge and awareness. <p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none">• Review established level of inspection and frequency criteria.• Review MAR11 to resolve data to the extent necessary to assure that the compliance status shown is correct and to discuss any identified issues with the State.• Obtain or generate a list of all bridges meeting State criteria, and review a random sample from the list to determine adherence to State criteria. <p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none">• Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.• National InD-AL – conduct in accordance with national direction and guidelines.

General: This metric ensures there is criteria established for triggering more frequent inspections, and that the criteria is followed.

Criteria: It is understood that a specific frequency is often not established for In-depth and Special inspections, and typically never for Damage inspections; however, criteria for level of inspections should be established for all types.

Compliance levels: If bridge records or MAR resolution indicates that some inspections are found that do not adhere to the established level and frequency criteria, the PM should be notified of the finding and the metric assessed as SC. The finding will not result in NC because there is no direct requirement in the NBIS for the State to follow its own criteria; however, since following it is implied, such a finding is not considered full compliance and therefore is considered SC.

Reasonable documentation for not following the established criteria is acceptable and should be counted as adhering to the criteria.

Assessment levels: For the Min-AL, review the MAR for indication of any new deficiencies, keeping in mind that many shown may reflect limitations in analyzing the NBI data. The MAR information at the Min-AL is for knowledge and awareness only, which should inform whether to perform further review at the Int-AL for either the current or the following review year, to further assess the extent of the issue.

Also for the Int-AL, obtain and review the criteria used by the State, and to the extent possible generate a list of bridges meeting that criteria. Ensure that all bridges are coded for the reduced frequency identified in the policy. The ability to generate a list may be limited to querying any NBI items that may be included in their criteria, which may not capture every aspect of the State's criteria. Alternatively, ask the State to generate the list, and clearly identify the criteria used to develop that list.

Metric Assessment Report (MAR): Generate the MAR using the [NBIP MARGen tool](#) available at the [NBIP SharePoint site](#). The MAR is typically based on the most recent and previous April NBI submissions.

The MAR is based on NBI data, which has some known limitations for determining compliance. A few examples include border bridges where the other State has inspection responsibility, when the time frame for processing and submitting NBI data causes some inspection data to be omitted from the submittal, or situations when the bridge has been replaced or work has been performed that changes the inspection schedule.

Background/changes for PY2018: *The Int-AL was modified to bring into the metric an existing requirement to resolve all deficiencies identified in the MAR or until the compliance determination is confirmed.*

NBIS Reference: 23 CFR 650.313 (a) & (b) Inspection procedures – Quality inspections

Criteria	<ul style="list-style-type: none"> • Each bridge is inspected in accordance with the <i>AASHTO Manual for Bridge Evaluation (MBE)</i>, as measured by the following criteria: <ul style="list-style-type: none"> ◦ condition codes are within generally acceptable tolerances, ◦ all notable bridge deficiencies are identified, and ◦ condition codes are supported by narrative that appropriately justifies and documents the component condition rating. • A qualified team leader is at the bridge at all times during each initial, routine, in-depth, fracture critical member and underwater inspection.
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Population: Bridges in the State or selected geographic/owner subset that are open to traffic, and have been inspected since January 1 of the previous calendar year.

Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none"> • At least 90% of bridges reviewed meet the criteria for component condition ratings, documentation of deficiencies, and following of applicable MBE procedures. • All bridges reviewed had a qualified team leader on site during all most recent inspection types. <p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none"> • At least 80% of bridges reviewed meet criteria for component condition ratings, documentation of deficiencies, and following of applicable MBE procedures. • All bridges reviewed had a qualified team leader on site during all most recent inspection types. <p>Non-Compliance (NC): One or more SC criteria are not met.</p> <p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
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Assessment Levels (AL)	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none"> • Monitor PCA if in effect. • Perform field reviews of bridges sampled at a LOC 80%, MOE 15% size or greater, to compare inspection reports for all appropriate inspection types with actual bridge conditions to evaluate: <ol style="list-style-type: none"> 1) Accuracy of component condition codes; 2) Use of MBE procedures; 3) Adequacy of documentation and appropriate justification of component condition ratings; 4) Indication that a qualified team leader was present at each applicable inspection, and qualified divers for underwater inspections.
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	<p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none"> • Include field verification of one active Routine inspection to verify team leader presence and that MBE procedures are followed. <p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none"> • Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines. • National InD-AL – Conduct in accordance with national direction and guidelines.
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General: Metric 12 assesses the quality of bridge inspections. For each sampled bridge, all applicable types of inspection are field reviewed to determine if the inspections:

- Were conducted by qualified team leaders,
- Were performed using proper procedures,
- Resulted in accurate condition codes,
- Resulted in fully documented deficiencies, and
- Included all appropriate inspection types.

Routine bridge inspections, and FCM and UW inspections when appropriate, are assessed. Complex inspection procedures where needed are also assessed. The most recent inspection report(s) for all types are compared to field conditions.

Inspected in accordance with the AASHTO MBE means that inspection processes and techniques described in the MBE Section 4 for Routine, FCM, and UW inspections are generally followed. Verifying the use of MBE procedures through field reviews is generally limited to looking for obvious discrepancies between documented procedures and field observations, such as indications that certain areas were not accessed or that the FCMs or elements requiring an UW were not accessed. Therefore, the primary means of assessing whether MBE procedures were followed, other than participation in the active inspection, is by review of inspection report documentation including photos for evidence that procedures were carried out.

Metric 22 should be assessed along with the Metric 12 field reviews. Metric 12 is focused on the four main condition codes resulting from inspections, the quality of the inspection documentation, and overall quality of the inspection, whereas Metric 22 assesses other NBI data items associated with the bridge record.

Field reviews are not complete and thorough bridge safety inspections. Rather, these reviews should make a reasonable assessment of the overall quality of the most recent inspection and verify, to the extent practical, the previous inspection findings and condition assessments for the accessible parts of the bridge.

If the inspection report identifies findings that cannot be confirmed, those findings should be assumed accurate. However, observed defects or deterioration that are not documented in the report may require further investigation, such as review of prior inspection reports and interviews, before considering the defect an inspection quality issue.

Field reviews should be coordinated with the State PM or other appropriate inspection staff. State or agency participation in the review is strongly encouraged, as this typically leads to a consensus of review findings, informative discussions, and insight into the inspection program. The expectation is that the field review is conducted with State personnel.

In the rare event the State or agency staff do not attend, make every effort to include another FHWA employee, for safety of the reviewer. Discuss with the Division leadership or BSE if someone cannot be found to accompany the reviewer.

Bridges requiring excessive effort or cost due to geography or inaccessibility need not be included in the field review subset.

Population: The population includes all bridges in the State or a geographic or owner subset (if selected by the reviewer) that have had Routine Inspections since January of the previous calendar year prior to the start of the review year. For example, for the PY18 review beginning in April 2017,

the review should only include those bridges having had Routine Inspections during or after January 2016. This will ensure that only recent inspections are reviewed, preventing review of the same structure in subsequent years and identification of older issues that may have since been corrected.

For the sample bridges, the most recent FCM, Underwater, Complex, and other types of inspections also must be included in the review, regardless of when performed (even if prior to January 2016).

Reviewing a subset can reduce the amount of travel required, but all subsets for the entire State must be covered in the 5-year review cycle. The plan for review by subsets must be documented each year under extent of review in the FSM.

Geographic subsets should include all owning agencies within that subset. Rotation of subsets around the State in less than 5 years may be advantageous, allowing flexibility to focus the remaining year(s) of the cycle on reassessment of certain areas or a statewide sample to gain an overall perspective.

Sampling: The minimum number and selection of the field review bridges is based on a statistical randomized sample, largely consistent with other metrics, and retains sampling flexibility for the reviewer. The sample is based on criteria determined to ensure selection of bridges with target risk factors, conditions, and other characteristics. The criteria used by the NBIP Sampling Tool to select the sample bridges and can be found on the [NBIP SharePoint site](#).

The default sample size used by the Tool is Tier 1 (LOC 80%, MOE 15%), with the ability to select a Tier 2 (LOC 80%, MOE 10%) sample size. A larger than Tier 1 sample size may be selected for field review, but the PM must be notified of and understand the reasons for reviewing a larger size, and the larger size must be documented before the review in the 'Extent of Review' field in the FSM. A larger size other than Tier 2 will require manual selection of additional field bridges in the order from the random sample list.

For example, if desired, 20 bridges may be field-reviewed in order to remain consistent with past reviews. When using standard mathematical rounding, the effect of reviewing a Tier 1 sample size vs. 20 will affect the allowable number of inspections beyond the metric tolerances for each compliance level.

The Sampling Tool selects a target number of bridges for each of the Procedure metrics (Metrics 13, 14, 16-19, 21) being reviewed at the Int-AL, if available in the selected geographic area. The tool also selects a target number of bridges in poor, fair, and good condition and on the NHS before rounding out the sample with bridges of any type, condition, or on/off-system.

The random sample may be manually modified in the Sampling Tool after selection. Reasons for replacing a sample bridge with another include but are not limited to replacement, closure, or inaccessibility due to flooding or construction work. However, the next bridge listed in random sample list should be selected in place of the removed bridge. To obtain a different diversity of structure types or other factors, the criteria listed above for structural conditions and procedures metrics being assessed at the Int-AL must first be met. Discuss with the BSE any unique situations where further selection modification is desired. Document the justification for the selection changes in the FSM.

Compliance levels: *Generally acceptable tolerances* for condition assessments exist when the inspector determined NBI condition codes are within one value of the review team's. The team typically includes both FHWA and State staff.

Notable bridge deficiencies are those leading to NBI component ratings of 5 or less, or those requiring some kind of immediate action.

The metric is assessed on a 'per bridge' basis. If all factors are within tolerance as identified on the field review form, then the bridge is a positive data point toward compliance. Conversely, if one or more factors for the bridge are out of tolerance, then the bridge is a negative data point. If 17 of the 18 bridges are positive (or 94.4%), using standard mathematical rounding to 94%, the determination for this metric would be Compliant.

When more than one inspection type was completed, percentages for measuring compliance are still determined based on the number of bridges field reviewed. For example, one bridge may have current inspection reports for routine, FCM, and UW inspections. This package of three reports should be considered one data point. The result of the three inspections should yield one resulting superstructure condition code in the data submittal, and also in the routine inspection report if completed more recently than the fracture critical and underwater inspection reports. If the three reports are judged to have the condition codes (Items 58, 59, and 60, or 62) within acceptable tolerances, it would be a positive data point toward compliance. If 18 bridges identified for field review had 23 current NBIS inspection reports (5 are inspections other than routine), the denominator to use for the percentage calculation should be 18 (not 23). The same logic applies to assessing documentation of notable deficiencies in the three inspection reports.

Condition coding guidance is available in the comprehensive bridge inspection training course, in addition to the Coding Guide and the BIRM. Draw upon all FHWA guidance to determine the proper condition code, understanding the extent and severity of deterioration and effect on structural capacity that is intended for each level of condition. Consult the BSE if a disagreement in the field cannot be resolved.

Appropriate justification of determined ratings means the lower the value of the condition code, the amount of documentation increases to thoroughly describe its location, extent, and significance. While a condition code of 6 may normally warrant a fairly brief narrative, as the condition worsens more thorough documentation is required, which should include photos, sketches, measurements, etc., to fully document the identified deficiencies and support the assigned condition rating. Per the MBE, condition codes of 5 or less require appropriate documentation. If there is lack of documentation for a component rated 6 or greater, this is acceptable, though it is considered good practice to include an appropriate description for components in all conditions.

If findings from an UW or FCM inspection have resulted in a lowering of a condition code, the lowered code and the associated narrative should be reflected in the subsequent Routine inspection report.

If a compliance issue is found in one geographic subset, the issue should be applied to the State compliance determination and an appropriate PCA should be implemented. If in the following year a review is done in a different region yielding no issues, but the PCA for the previous year is not yet complete, the State is still considered to be in non-compliance until the PCA is complete and no other compliance issues have been found.

Assessment levels: Metric 12 assesses, in part, whether a qualified TL was present during the inspection, while team leader qualifications are assessed under Metric 3. Comparing the team leader designated on the inspection report to an approved list of team leaders provided by the program manager is sufficient evidence that a qualified team leader was present. If no qualified team leader as identified by the State is found to have been on site during one or more inspections, Metric 12 is NC, except for the following scenario. If the team leader present at the site is on the State's list of qualified team leaders, but it was found under Metric 3 that the team leader isn't actually qualified, this issue affects compliance for Metric 3 but not Metric 12. However, document the lack of a qualified team leader on site in Metric 12 and explain that the compliance was affected for Metric 3.

At the Min-AL, use the Sampling Tool to determine the field review bridges, which will produce a randomized list based on a predetermined set of factors and, if desired, based on the reviewer's selected (filtered) geographic region. The sample size at the Tier 1 level will likely be between 15 and 19 bridges, depending on the population of State bridges and the sub-population chosen for the geographic area under review. The reviewer should remove any bridges that have been dismantled or replaced, border bridges not under the State's responsibility, or are otherwise inappropriate for review, then use the tool to select the next one(s) on the randomized list. The reason for removal of any bridge from the original randomized list should be documented in the Extent of Review section of the FSM in SMART. Tier 2 or some other larger sample size should be considered in cases where a larger selection would better represent multiple Districts or owning agencies within the State or geographic area.

Assessing Metric 12 along with related Procedure metrics: When a related Procedure metric is being assessed at the Min-AL, regardless of the Metric 12 assessment level, the reviewer is not expected to compare conditions at the site with any bridge-specific procedures in the bridge file. Instead, focus on the overall quality of inspection(s) compared to the inspection report(s), accessibility of bridge members for inspection, and on the other aspects of Metric 12 such as accuracy of the condition codes, supporting narrative, and presence of a team leader. In this case, obvious procedure related inspection quality issues found during the field review, such as a bridge with a pier in deep water and no evidence of an UW inspection being performed on the pier, should be considered Metric 12 findings. However, any finding directly related to a bridge-specific procedure for any Min-AL Procedure metric should add to the reviewer's knowledge and awareness of issues related to that other metric, but should not directly affect the compliance measure for that metric. Discuss particular findings with the PM and document them in the FSM. For serious findings, complete an Int-AL review for the affected Procedure metric in the current or following review year.

When a related Procedure metric is being assessed at the Int-AL, the bridge-specific procedures are to be reviewed under that metric. If evidence is found in the field indicating the bridge-specific procedures were not followed, an inspection quality finding should be applied to Metric 12. On the other hand, if the bridge-specific procedures were followed, but the procedures are found inadequate for the particular bridge, a procedure finding should be applied to the Procedure metric.

Judgement should be applied in determining the effect of an inspection finding on either the Metric 12 or related Procedure metric's compliance measure, taking into account the severity and extent of the finding, the actual effect on inspection quality, and the importance of the specific procedure to inspection quality.

For example, when a bridge-specific procedure has all FCMs identified, but evidence in the inspection report or the field indicates some FCMs were not inspected within arm's reach, the issue should result in an inspection quality finding for Metric 12. However, if some FCMs were not

identified but evidence shows all FCMs were inspected within arm's reach, the issue would result in a bridge-specific procedure finding for Metric 16. If the FCMs were not identified and evidence shows that FCMs were not inspected within arm's reach, the finding should be applied to both Metrics 12 and 16. If the extent of the finding isn't clear, or if it's uncertain which metric(s) apply, discuss with the BSE.

If the most recent UW inspection report is several years old, any findings still apply toward the bridge assessment.

At the Int-AL for Metric 12, include participation in at least one active Routine inspection. Select the bridge(s) manually in consultation with the State, independent of the random sample bridges. For the active inspection(s), observe the inspection process and application of proper procedures. Add the bridge(s) to the random sample as a data point for assessment, but only review the bridge(s) for the Field Form items related to quality of inspection, following of procedures, and qualified team leader presence on the lower portion of the Form. Do not assess the condition ratings and narrative from the previous Routine inspection report, or the ratings and narrative generated from the current inspection. Although the condition ratings and supporting narratives aren't rated on the Field Form for the bridge(s), assess the bridge(s) as a data point with the other bridges for final compliance determination.

Background/ changes for PY 2018: Revised this metric to make the selection of field bridges based on a random sample, to be more consistent with other metrics. The random sample is based on criteria built into the FHWA Sampling Tool, related to aspects determined to reflect higher risk, to ensure selection of bridges of certain types and in fair to poor condition.

NBIS Reference: 23 CFR 650.313 (c) – Rate each bridge to its safe load-carrying capacity

Criteria

- Bridges are rated for their safe load carrying capacity in accordance with the *AASHTO Manual for Bridge Evaluation (MBE)*, for all legal vehicles and State routine permit loads.

Compliance Levels

Population: All bridges in the State that are open to traffic.

Compliance (C): All of the following must be met for C:

- All bridges have a NBI load rating determination.
- All sampled bridges have documentation in accordance with the MBE that supports the load rating determinations.

Substantial Compliance (SC): All of the following must be met for SC:

- 100% of higher risk bridges and at least 95% of lower risk bridges have an NBI load rating determination.
- At least 90% of sampled bridges sampled have documentation in accordance with the MBE that supports the load rating determinations.
- Ratings may have minor or isolated documentation deficiencies, but these do not adversely affect the accuracy of the rating.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Review MAR13 Summary for indication of any new compliance deficiencies.
- Assess based on previous review results, the status of any new compliance deficiencies, and the reviewer's knowledge and awareness of State load rating practices.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Review MAR13 and resolve load rating compliance deficiencies to the extent necessary to assure that the compliance status shown is correct, and discuss identified load rating data inconsistencies with the State.
- Randomly sample bridges identified in the NBI as having load rating determinations and review the load ratings to verify that load rating calculations or documented determinations exist, all legal vehicles were considered, and load ratings are consistent with current conditions.
- Include some bridges from this metric's random sample in the Metric 12 and 22 field review sample, to compare actual bridge conditions with those identified in the load rating.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – conduct in accordance with national direction and guidelines.

General: The NBIS requires all bridges to be rated for safe load capacity, including bridge length culverts.

Population: *Higher risk bridges* for the Load Rating metric are those bridges with:

- NBI condition ratings of 4 (Poor) or less for Superstructure (Item 59), Substructure (Item 60), or Culvert (Item 62)
- Item 70 <5
- NBI appraisal rating of 3 (Serious) or less for Structural Evaluation (Item 67)
- Bridges requiring load restriction (NBI Item 41 coded B, P or R),
- Bridges with temporary supports (NBI Item 41 coded D)
- Bridges with fracture critical members (FCM)

Lower risk bridges for this metric are those that are not classified as higher risk bridges.

Compliance levels: A load rating, as defined in the NBIS, is *the determination of the live load carrying capacity of a bridge using bridge plans and supplemented by information gathered from a field inspection.*

An *NBI load rating determination* means NBI Items 63 and 65 are not equal to 5 (no load rating analysis or evaluation performed).

The 100% and 95% thresholds in the first SC criteria are applied to higher and lower risk bridges, respectively, as analyzed by MAR using the entire State inventory, while the 90% threshold in the second SC criteria is applied to the file review sample, which is reviewed at the Int-AL. The difference in the thresholds reflects the different aspects of assessing inventory load rating data versus the review of a random sample of load rating files.

For SC, *minor or isolated documentation deficiencies* include calculations that are difficult to follow, missing data input; valid but unclear assumptions, etc.

Any NBI reporting deficiencies, including data not reported in the proper format (RF/HS20/HL93), or NBI data not matching the load ratings on file, should be considered for Metric 22.

Per the MBE, ratings should be accurate for current structural and traffic conditions, and material types.

Reasonable timeframes to accomplish a load rating should be acknowledged in assessing compliance. For example, consider a bridge that has recently been identified as needing a rating (or re-rating), but the rating has not yet been done; if the State established timeframe has not been exceeded, this bridge would not be considered as a rating deficiency.

The load rating should consider all legal vehicles when determining if posting is required or not. This can either be done on a per bridge basis, or by parametric analysis for groups of bridges. When the design load rating value does not envelope all legal loads, a rating value must be documented for each vehicle requiring posting.

Assessment levels: Assessment of this metric includes review of MAR for all assessment levels, but to a higher degree at the Int-AL than the Min-AL; it also includes review of a sampling of files, and field reviews at the Int-AL.

The MAR includes all bridges for the metric population, and is based on the most recent and previous April NBI submissions.

The MAR has a *summary* tab and a data tab(s). The data tab(s) details inconsistencies, errors, or compliance deficiencies in the NBI load rating data. The results shown on the *summary* tab should be considered a preliminary assessment of compliance only. Investigation of the data issues, as indicated below, is required. Some issues may be data errors (a Metric 22 issue), while others may relate to the load rating (a Metric 13 issue).

At the Min-AL, the MAR summary tab is reviewed for knowledge and awareness. If new compliance deficiencies are identified that are not being corrected under a PCA, then the metric should be assessed at the Int-AL, preferably in the current review year, or at the latest in the next year, to determine the full extent of any issues related to the metric.

At the Int-AL, the compliance deficiencies identified on the summary and data tabs as red items must be resolved by:

1. Reviewing the data for inconsistencies and errors, resolving as appropriate.
2. Informing the State of any non-resolved compliance deficiencies, and the NC or SC determination based on MAR13.
3. Asking if the State concurs with the NC determination.
 - a. If there is concurrence with NC, follow normal procedures for NC.
 - b. If there is not concurrence with NC, ask for corrected NBI data or an explanation as to why the metric should not be considered NC. If necessary to achieve resolution, increase the sample size to the Tier 2 level or complete additional investigation at the InD-AL.

The final compliance snapshot on the MAR summary tab after resolution must match the compliance level assigned for the metric.

The data inconsistencies identified in the MAR as yellow items are also evaluated at the Int-AL. Review a few (at least 5 recommended) bridges of these bridges to determine if correction is necessary. Some data inconsistencies could be valid, while others may not be, leading to SC and a resulting Improvement Plan.

File review: At the Int-AL, select a random sample of bridges for file review. *Verify bridges have load rating calculations or that documented determinations exist* and ensure that the results are consistent with other bridge information contained in the file and in the NBI.

Verify load rating calculations, assumptions, and methodology to ensure consistency between calculations and the load rating summary information, suitability of rating vehicles, software program used, etc. Note load rating *assumptions* in the file and verify the actual conditions. Such assumptions include LRFR considerations for condition, significance of or changes to dead load, impact forces, and effectiveness of enforcement.

Evaluation of the load rating file and load rating *policies and procedures* requires familiarity with assigned rating policies (5 conditions in the [9/29/2011 HIBT memo](#)), rating vehicles (including AASHTO's SHVs), and other MBE provisions.

An assigned rating is different than an engineering judgment rating as prescribed in the AASHTO Manual. Engineering judgment is allowed by the MBE in certain circumstances, primarily for concrete or masonry bridges with no plans.

The FHWA Resource Center or Headquarters load rating specialists are available to participate when conducting an Int-AL review.

Field reviews: At the Min-AL, the reviewer should compare field conditions, condition codes, inspection narrative, and design load with the overall load rating, checking only for obvious and substantial discrepancies between them. If a load rating issue is found for bridges field reviewed under Metric 12, it should add to the reviewer's knowledge and awareness for Metric 13. For example, if a load rating for a bridge being reviewed under Metric 12 does not seem to match field conditions, consider reviewing Metric 13 at the Int-AL sooner in the 5-year cycle than previously planned or reviewing at the Tier 2 level to further assess the extent of the issue.

At the Int-AL, the process for determining the number and selection of sample bridges from this metric for inclusion in the field review for Metrics 12 and 22 is covered in Metric 12, and is repeated in part here. The Sampling Tool will automatically select a target number of bridges (see [selection criteria](#) on the [NBIP SharePoint site](#) for current target number) required under this metric for the Metrics 12 and 22 field reviews, if available in the selected geographic area. If fewer bridges than the target are available, the reviewer is not expected to go outside of the geographic area to review additional bridges.

At the Int-AL for Metric 13 for bridges selected for both field and file review, any field findings can be applied directly to the compliance determination for Metric 13. Actual bridge conditions should be compared to the load rating assumptions, input criteria, etc., such as the percentage of section loss on steel beams.

Also at the Int-AL, evaluate the accuracy and compatibility of other related load rating NBI items listed below for all bridges sampled. If NBI data is inaccurate, this should not directly affect the compliance of Metric 13, since NBI data quality is assessed under Metric 22. Notify the State of any data quality errors, but the data should not directly impact the compliance determination of Metric 22. However, if a widespread data issue is suspected, consider (re)assessing Metric 22 at the Int-AL and including the load rating data item(s) in question.

Load rating NBI items relating to, or which could influence this rating include:

- Item 31 – Design Load
- Items 63-66 – Operating/Inventory Ratings and Methods
- Item 41 – Structure Open, Posted or Closed
- Item 70 – Bridge Posting
- Item 103 – Temporary Structure
- Item 106 – Year Reconstructed
- Item 108 – Wearing Surface

Metric Assessment Report (MAR): The MAR is generated using the [NBIP MARGen tool](#) available at the [NBIP SharePoint site](#).

The MAR is based on NBI data, which has some known limitations for determining compliance. A few examples include border bridges where the other State has inspection responsibility, when the time frame for processing and submitting NBI data causes some inspection data to be omitted from the submittal, or situations when the bridge has been replaced or work has been performed that changes the inspection schedule.

Background/ changes for PY 2018: Metric revised to no longer require resolution of all possible deficiencies per the MAR at the Min-AL; several clarifications were made in the Commentary.

NBIS Reference: 23 CFR 650.313 (c) Inspection procedures – Post or restrict bridges

Criteria	<ul style="list-style-type: none"> • Bridges are posted or restricted in accordance with the <i>AASHTO Manual for Bridge Evaluation (MBE)</i> or in accordance with State law, when the maximum unrestricted legal loads or State routine permit loads exceed that allowed under the operating rating or equivalent rating factor. • Posting deficiencies are promptly resolved.
	<p>Population: All bridges in the State requiring posting or that are closed.</p>
Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none"> • All bridges are properly posted or restricted. • All identified posting/closing compliance deficiencies have been promptly resolved.
	<p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none"> • All bridges are properly posted or restricted. • Posting deficiencies have been promptly resolved, but no maximum timeframe for correction has been established or documented. • Safety Related Checks for bridge posting included in the NBI data check reports are resolved within 90 days of receipt.
	<p>Non-Compliance (NC): One or more SC criteria not met.</p>
	<p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
Assessment Levels (AL)	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none"> • Monitor PCA if in effect. • Review and notify the State of posting deficiencies identified in the data submittal reports within 30 days of receiving the reports from the NBI administrator. • Review MAR 14 and resolve all posting deficiencies identified. • Assess based on previous review results, the status of current posting deficiencies, and the reviewer's knowledge and awareness of State load posting practices.
	<p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none"> • Randomly sample bridges requiring posting and review the bridge files to verify that the documentation shows posting is properly implemented and corresponds to the load rating recommendation. • Include some bridges from this metric's random sample in the Metric 12 and 22 field review sample, to verify that posting signs exist and are appropriate for the current load rating and posting recommendations.
	<p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none"> • Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines. • National InD-AL – Conduct in accordance with national direction and guidelines.

General: This metric assesses whether bridges are load posted or restricted when the maximum unrestricted legal loads or State routine permit loads exceed those allowed under the operating rating or equivalent rating factor.

Population: Criteria for Metric 14, bridges requiring posting:

- Item 41 = A and (Item 70 < 5 or Item 64 < 20 mT*) or
- Item 41 = B, D, E, K, P or R or
- Item 41 \leftrightarrow K and Item 64 < 2.7 mT*

* Note that the Sampling Tool and MAR generator require Item 64 to be in metric tons, regardless of how submitted. When Items 64 (and 66) are submitted as a rating factor to the NBI, they are converted to and stored as metric tons. When generating a NBI data file, Item 64 (and 66) are output in metric tons.

Compliance levels: The *Safety Related Checks for bridge posting* list bridges with Item 64 between 2.7 and 19.9 mT or Item 41 = 'B'. These checks are included in the *NBI data check reports*, which are generated during processing of the NBI data submittal and sent to the Division and State by the National Bridge and Tunnel Inventory Engineer in the Office of Bridges and Structures. Track the resolution of the Checks to determine the proper compliance level.

Promptly resolved means resolving within the timeframe stipulated in the load posting procedures. The FHWA recommends resolution as soon as possible depending on urgency, up to 90 days if no timeframe has been established. The FHWA selected the default 90-day timeframe after careful consideration of current practice, the safety implications, and what can reasonably be accomplished. However, in cases where known existing loads significantly exceed the recommended posting limit, or the route is of significant importance (bus routes, emergency vehicle routes, etc.), FHWA recognizes that these routes must be posted much more quickly to ensure safety.

It is not possible to eliminate vandalism or impact damage; however, the owner should develop a process to quickly replace or repair such signs upon discovering the problem. For example, some States consider a missing posting sign a critical finding and have established an allowable timeframe to reinstall the sign. Similarly, once determined that a bridge must be restricted for loads, the new signs must be installed promptly. If the owner is able to install the missing, damaged, or new posting signs within the agreed upon timeframe, the deficiency is considered resolved, and a determination of C is warranted. If the owner has no established timeframe, but still promptly resolves the issue, a determination of substantial compliance is warranted. If the owner does not timely address the issue of posting deficiencies, this should be considered NC.

Consider substandard signs, such as those with the proper information but a non-standard font or sign material or not easily readable, to be SC.

Assessment levels: *Resolve all identified posting/closing compliance deficiencies* by following up on identified items and determining if they are just data errors that must be corrected, or if bridges still must be posted. Confirm the accuracy of the data, and resolve any compliance issue(s). If the bridge has since been posted within the established timeframes, this would be considered resolved. If any bridge must be posted and has not been by the established timeframes (or 90 days if no timeframe is established), this is considered NC. Address such situations promptly with the State, and communicate them to the Division Administrator and the Bridge Safety Engineer. Document the current status and eventual resolution of each of these situations in the MAR14, with a copy attached in SMART.

At the Min-AL for Metric 14, if a posting issue is found for bridges field reviewed under Metric 12, use this knowledge and awareness to consider another review of Metric 14 at the Int-AL in the current or following review year, to further assess the extent of the issue. Discuss particular findings with the State for prompt resolution.

At the Int-AL, the process for determining the number and selection of sample bridges from this metric for inclusion in the field review for Metrics 12 and 22 is covered in Metric 12, and is in part repeated here. The Sampling Tool will automatically select a target number of bridges from this metric for the Metrics 12 and 22 field reviews if available in the selected geographic area (see [selection criteria](#) on the [NBIP SharePoint site](#)). If fewer than the target are available, the reviewer is not expected to go outside of the geographic area to review additional bridges.

At the Int-AL for Metric 14, for bridges selected for both field and file review, any field findings can be applied directly to the compliance determination for Metric 14.

Load posting NBI items are those related to or could influence this topic: Item 31 – Design Load; Items 63-66 – Operating/Inventory Ratings and Methods; Item 41 – Structure Open, Posted, or Closed; Item 70 – Bridge Posting; Item 103 – Temporary Structure. At the Int-ALs these items are reviewed during field reviews for compatibility between items and for accuracy. The reviewer should include these items as part of an Int-AL of Metric 22 when this level of assessment is undertaken for Metric 14.

In some cases, bridges on the Metric 14 sample that need posting are coded ‘R’ for Item 41—these are often parkway bridges with ample load capacity for the trucks allowed on the parkway. In these cases, if the operating rating meets or exceeds the force effects from all allowable truck loads on that route, and heavier trucks are restricted by some other method than load posting each bridge, then the code of ‘R’ is sufficient to indicate that the bridge is restricted and does not need to be individually posted.

Metric Assessment Report (MAR): The MAR includes all bridges for the metric population, based on the most recent and previous April NBI submissions.

The MAR has a *summary* tab and a data tab(s). The data tab shows the bridge-by-bridge posting status based on several evaluations using NBI Items 41, 64, 70, 103, and 59-60 or 62 in the most recent and the previous year’s NBI submissions. It also has a *Bridge Compliance Status* indicator showing the overall posting status of the bridges. The *summary* tab summarizes the evaluation data on the data tab and provides an *Overall Compliance Snapshot* based on a summary of the *Bridge Compliance Status* indicator.

For all assessment levels, the *Bridge Compliance Status* of all bridges evaluated as *not properly posted or restricted* must be resolved. The data tab provides columns for manually overriding the evaluation result and for providing comments or explanations based on the review.

Posting/closing compliance deficiencies are those identified as red items in the MAR. (Note: These include the “safety related checks” of the NBI submission, but also incorporate more data checks).

MAR data inconsistencies and errors are those identified as yellow items in the report.

Background/changes for PY2018: Clarifications were made to commentary.

NBIS Reference: 23 CFR 650.313 (d) – Prepare bridge files**Criteria**

- Bridge files are prepared and significant bridge file components recorded as described in the AASHTO MBE.

Compliance Levels

Population: Bridges for the entire State that are open to traffic.

Compliance (C): All of the following must be met for C:

- All sampled bridges have files.
- All sampled files have the applicable significant components.

Substantial Compliance (SC): All of the following must be met for SC:

- All sampled bridges have files.
- At least 85% of sampled bridge files have the applicable significant components.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Assess based on previous review results and the reviewer's knowledge and awareness of State's practices.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Randomly sample bridges to verify that bridge files and significant bridge file components exist; if some components are only referenced, verify the components exist in the referenced location(s) and are readily available.

In-Depth Assessment (InD-AL): **In-Depth Assessment (InD-AL):** Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – Conduct in accordance with national direction and guidelines

General: As outlined in Section 2 of the AASHTO Manual (MBE), the bridge file contains a wide range of information applicable to bridge inspection which may be located in more than one location. The list of *applicable significant bridge file components* for Metric 15, which is a subset of the larger list provided in the MBE is composed of:

- Inspection reports
- Waterway information – channel cross-sections, soundings, stream profiles
- Special inspection procedures or requirements
- Load rating documentation, including load testing results
- Posting documentation
- Critical findings and actions taken
- Scour assessment
- Scour Plan of Action (POA) (for scour critical bridges and those with unknown foundations) and documentation of post-event inspection or follow-up
- Inventory and evaluation data and collection/verification forms
- Significant correspondence

Per the NBIS, bridge files must also contain maintenance records.

Channel cross-sections must be included in the bridge file per section 4.8.7 of the AASHTO MBE. The FHWA interprets the MBE provision to apply to all bridges, including floorless culverts, spanning a waterway. Cross sections include vertical measurements from identified points on the upstream and downstream face(s) of the structure to the stream bottom or embankment at each abutment and at other substructure walls or piers at a minimum. A single cross section at one face may be appropriate for historically stable channels and embankments. Cross sections must be updated periodically so that a historical comparison is available in the file to help determine the extent of any scour, channel shifting, degradation, or aggradation of the stream. A frequency for obtaining and updating these measurements should be established, depending on an assessment of the bridge and stream characteristics, and documented in the bridge file. Evaluate the need for obtaining cross sections for pipes and box culverts that meet the definition of a bridge under the NBIS on a case-by-case basis.

Significant correspondence refers to correspondence and agreements regarding inspection responsibility, ownership, maintenance responsibilities with other agencies, or other issues that have an impact on the ability to ensure that thorough and timely inspections are completed.

For additional information on particular aspects or considerations relating to the significant file components, consult Section 2 of the AASHTO MBE.

Some significant components require retention of historical information, such as inspection reports, channel cross-section, etc. If the historical aspect of these components is found deficient, such as lack of past cross-section information, the remedy of this practice through an improvement plan or plan of corrective action will only change future documentation. Future year assessments should consider these recent improvements and their effectiveness of procedures moving forward in time in evaluating the adequacy of these components, and not require full histories that are unrecoverable. Another scenario is if files have been destroyed by a natural disaster, the previous files should be re-created to the extent possible from electronic or duplicate copies that may exist elsewhere, and from that time going forward the new file contents should be complete.

Compliance levels: Percentages for determining metric compliance should be calculated by considering each bridge file as one data point. Each of the significant components listed above and relevant maintenance and inspection data are the minimum requirements. Those components that do not apply to that particular bridge do not affect compliance for that bridge. For example, a scour assessment is not necessary if the bridge is not over water; no posting documentation is necessary if calculated load capacities were sufficient; etc.

For another example, when reviewing a sample of 19 bridges at the Int-AL, 1 bridge file is missing a required scour assessment; a second is missing both the load rating calculations and the stream cross-sections for a scour critical bridge; and the remaining bridge files are complete. The compliance percentage would be calculated as 17/19, or 89.5%, yielding a substantial compliance determination for the metric.

Assessment levels: Most of the components of a bridge file should be in the same location; however, if there are items that are not included in the bridge file, the file should reference where the information is located. The bridge file can be electronic, hard-copy, or a combination of both, as determined by the State's policies. Bridge files, or parts thereof, might be located in district or region offices for agencies that have a de-centralized organizational structure. These files may be reviewed electronically, by requesting mailed copies, or by visiting the remote offices.

Background/ changes for PY 2018: *Minor editorial corrections made, and clarification on channel cross sections and relevant maintenance data.*

NBIS Reference: 23 CFR 650.313 (e) (1) – Bridges with fracture critical members (FCMs)

Criteria	<ul style="list-style-type: none"> • Bridges with FCMs have the following: <ul style="list-style-type: none"> ◦ location of all FCMs identified ◦ inspection frequency ◦ inspection procedures • FCMs are inspected according to those procedures.
	<p>Population: Bridges for the entire State with FCMs that are open to traffic.</p>
Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none"> • All sampled bridges with FCMs have documented inspection procedures. • All sampled bridges with FCMs are inspected according to those procedures. <p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none"> • All sampled bridges with FCMs have documented inspection procedures; the procedures may have minor or isolated deficiencies that do not adversely affect the effectiveness of the FCM inspections. • All sampled bridges with FCMs are inspected according to those procedures. <p>Non-Compliance (NC): One or more SC criteria not met.</p> <p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none"> • Monitor PCA if in effect. • Assess based on previous review results and the reviewer's knowledge and awareness of State's FCM inspection practices. <p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none"> • Randomly sample bridges to verify that sample FCM bridge files contain inspection procedures, and the FCM inspection report indicates the bridge was inspected according to those procedures. • Include some bridges from this metric's random sample in the Metric 12 and 22 field review sample, to verify documented procedures were followed. <p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none"> • Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines. • National InD-AL – Conduct in accordance with national direction and guidelines.

General: FCMs must be inspected according to the documented inspection procedures for the bridge, which should contribute to thorough inspections yielding accurate condition assessments.

Risk factors to consider for inspection procedures include, but are not limited to:

- fatigue and fracture prone details
- problematic materials
- poor welding techniques
- potential out-of-plane distortion details
- previous cracking or repairs
- source of prior cracking
- cold service temperatures
- load posted
- superstructure condition code of 4 or less
- subject to overloads or impact damage
- older service life
- removal of debris
- high ADTT (either ADTT>5,000 or State defined criteria)

Knowledge of the source of prior cracking, such as load induced, distortion induced, constraint induced (pop-in fracture), or fabrication flaws (hydrogen, weld defect, etc.), can determine proper inspection procedures. Load induced is typically the most predictable, whereas the others are less predictable (with more inherent risk). The lowest anticipated service temperature is an important factor in determining susceptibility to cracking.

Bridges posted because of a controlling FCM, which may include deterioration, also warrant special attention. In general, evaluate the appropriateness of the prescribed procedures for any identified risk factors.

The non-redundant nature of FCMs, especially when coupled with risk factors, leads to a heightened concern for the performance of these members. By identifying these conditions or risk factors, the inspectors of FCMs can appropriately prepare for, and perform, a thorough inspection. Accordingly, the reviewer should, for those bridges selected from this metric for field review, look for the presence of risk factors at each site and evaluate whether the FCM inspection procedures and the inspection reports adequately address them.

Compliance levels: *Minor or isolated deficiencies* with FCM inspection procedures are those that could be improved to make the inspection more efficient or effective, or relate to better documentation of the report or the procedures. For example, ultrasonic inspection methods might be listed, but it is unclear which members will receive UT. However, the identification of FCMs, frequency of inspection, and knowing the risk factors present are all critical items, and deficiencies in these are not considered minor.

Assessment levels: Documented inspection procedures are those procedures required in the NBIS for specific types of more complex inspections, in this case for FCMs, to address those items that need to be communicated to the inspection team leader to ensure a successful inspection. These inspections must be planned and prepared for, identifying and accounting for each fracture critical member, needed access, inspection equipment, risk factors present (as detailed above), inspection methods and frequencies, and the required qualifications of inspecting personnel.

The AASHTO MBE, Section 4, has general considerations regarding inspection plans. An owner may have general overall inspection procedures in their bridge inspection manual which address common aspects of FCM inspections; however, each bridge with FCMs must have written inspection procedures specific to that bridge which address items unique to that bridge, if any. The prior inspection report is valuable to review for previous inspection findings, but often does not serve the

same purpose as the inspection procedures. The inspection report records what an inspector actually did, what was looked at, and what was found. Procedures lay out what should be done, looked at, etc. However, the required procedures may be incorporated into each report, often as an introductory section. This is an acceptable practice.

At the Min-AL for Metric 16, any State bridge-specific FCM procedures need not be assessed during the field reviews of any bridges under Metric 12 that may include FCMs. If an issue is found regarding a bridge-specific FCM inspection procedure for bridges field reviewed under Metric 12, it should add to the reviewer's knowledge and awareness toward Metric 16. Consider reviewing Metric 16 at the Int-AL in the current or following review year, to further assess the extent of the issue. Discuss particular findings with the State and document them in the FSM.

Conversely, at the Int-AL for Metric 16, for bridges selected for both field and file review, any field findings should be applied directly to the compliance determination for Metric 16.

For file review sampled bridges, evaluate the FCM inspection procedures for compatibility with the inspection reports and the bridge plans.

At the Int-AL, the process for determining the number and selection of sample bridges from this metric for inclusion in the field review for Metrics 12 and 22 is covered in Metric 12, and is repeated here in part. The Sampling Tool will automatically select a target number of bridges from this metric for the Metrics 12 and 22 field reviews if available in the selected geographic area (see [selection criteria](#) on the [NBIP SharePoint site](#) for field bridge selection). If fewer than the target are available, the reviewer is not expected to go outside of the geographic area to review additional bridges.

Background/ changes for PY 2018: Clarifications to field review selection and other clarifications were made.

NBIS Reference: 23 CFR 650.313 (e)(2) – Bridges requiring underwater (UW) inspections

Criteria	<ul style="list-style-type: none"> • Bridges requiring UW inspection have the following: <ul style="list-style-type: none"> ◦ location of all UW inspection elements identified ◦ inspection frequency ◦ inspection procedures • UW elements are inspected according to those procedures.
	<p>Population: Bridges for the entire State requiring underwater inspection that are open to traffic.</p>
Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none"> • All sampled bridges requiring UW inspection have documented inspection procedures. • All sampled bridges requiring UW inspections are inspected according to those procedures. <p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none"> • At least 90% of sampled bridges requiring UW inspections have documented inspection procedures; procedures may have minor or isolated deficiencies, but the deficiencies do not adversely affect the effectiveness of the UW inspections. • At least 90% of sampled bridges requiring UW inspections are inspected according to those procedures. <p>Non-Compliance (NC): One or more SC criteria not met.</p> <p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none"> • Monitor PCA if in effect. • Assess based on previous review results and the reviewer's knowledge and awareness of State's UW inspection practices. <p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none"> • Randomly sample bridges to verify that files contain UW inspection procedures, and the UW inspection report shows that the bridge was inspected according to those procedures. • Include some bridges from this metric's random sample in the Metric 12 and 22 field review sample, to verify documented procedures were followed. <p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none"> • Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines. • National InD-AL – Conduct in accordance with national direction and guidelines.

General: UW inspection must be performed according to the documented inspection procedures for the bridge, which should contribute to thorough inspections yielding accurate condition assessments.

Documented UW inspection procedures are those procedures required in the NBIS for specific types of more complex inspections, in this case for underwater elements, to address those items that must be communicated to the inspection team leader to ensure a successful inspection. These inspections must be planned and prepared for, taking into account identified underwater elements, physical scour countermeasures, needed access, inspection equipment, structural details, hydraulic features and characteristics, risk factors (as detailed below), inspection methods and frequencies, and the required qualifications of inspecting personnel.

Other items that may be addressed, if applicable, are: special contracting procedures prior to inspection (Coast Guard, etc.) and scheduling considerations (lake draw down, canal dry time, etc.). The AASHTO MBE, Section 4, gives general considerations regarding inspection plans.

An owner may have general overall inspection procedures in the bridge inspection manual that address common aspects of underwater inspections; however, each bridge with elements requiring underwater inspection must have written inspection procedures specific to each bridge that address items unique to that bridge. The prior inspection report is valuable to review for previous inspection findings, but most often does not serve the same purpose as the inspection procedures. The inspection report records what an inspector actually did, what was looked at, and what was found. Procedures lay out what should be done, looked at, etc. However, the required procedures may be incorporated into the report, often as an introductory section. This is an acceptable practice.

This metric considers the risks of bridges which cross over waterways. The development of good inspection procedures and concerted attention to follow those procedures will mitigate most of those risks. In addition, the risk of scour for scour critical bridges or bridges with unknown foundations is mitigated by development and implementation of a scour plan of action (POA) for each bridge.

Compliance levels: Specific risk factors include waterway features that may promote scour and undermining of substructure elements, such as, but not limited to:

- rapid stream flows
- significant debris accumulation
- constricted waterway openings
- soft or unstable streambeds
- meandering channels

Water conditions that may affect the inspection, such as black water or rapid stream flows, should be identified and accounted for in the inspection methods. The procedures should identify water environment and structural systems or materials that may accelerate deterioration of the bridge elements. These factors include highly corrosive water, unprotected steel members, timber piling in the presence of teredos or limnoria, etc. By identifying these conditions, the underwater inspectors can appropriately prepare for and perform a thorough inspection.

For bridges sampled for field and/or file review, look for any evidence of risk factors or unique circumstances or conditions at each site by reviewing the inspection report, plans, etc., and comparing them with the inspection procedures. The field review should verify underwater inspection access requirements, if possible.

Assessment levels: At the Min-AL for Metric 17, any State bridge-specific procedures need not be assessed during the field reviews of any bridges under Metric 12, which may include bridges requiring underwater inspections. If a specific underwater inspection procedure issue is found for bridges field reviewed under Metric 12, it should add to the reviewer's knowledge and awareness toward Metric 17, and consider reviewing Metric 17 at the Int-AL in the current or following review year, to further assess the extent of the issue. Discuss particular findings with the State and document them in the FSM.

Conversely, at the Int-AL for Metric 17, for bridges selected by the sampling tool for both field and file review, any field findings should be applied directly to the compliance determination for Metric 17.

At the Int-AL, the process for determining the number and selection of sample bridges from this metric for inclusion in the field review for Metrics 12 and 22 is covered in Metric 12, and is in part repeated here. The Sampling Tool will automatically select a target number of bridges from this metric for the Metrics 12 and 22 field reviews, if available in the selected geographic area (see [selection criteria](#) on the [NBIP SharePoint site](#) for field bridge selection). If fewer than the target are available, the reviewer is not expected to go outside of the geographic area to review additional bridges.

Background/ changes for PY 2018: *No substantial changes were made to this metric. Minor clarifications and editorial corrections were made.*

NBIS Reference: 23 CFR 650.313 (e), (e3) Bridges that are scour critical

Criteria

- Bridges over water have a documented evaluation of scour vulnerability.
- Bridges that are scour critical have a scour plan of action (POA) prepared to monitor known and potential deficiencies and to address scour critical findings.
- Bridges that are scour critical are monitored in accordance with the POA.

Population: Bridges for the entire State that are over water and open to traffic.

Compliance (C): All of the following must be met for C:

- All bridges over water have a scour evaluation as indicated by NBI scour coding.
- All sampled bridges have a documented scour evaluation assessing scour vulnerability.
- All sampled bridges that are scour critical or with unknown foundations have a scour POA.
- All sampled bridges subject to a triggering event are monitored in accordance with the POA.

Substantial Compliance (SC): All of the following must be met for SC:

- All bridges over water have a scour evaluation as indicated by NBI scour coding.
- All sampled bridges over water have a documented scour evaluation assessing scour vulnerability, but some evaluations may have minor or isolated deficiencies that do not adversely affect the assessment.
- All sampled bridges that are scour critical or with unknown foundations have a POA, but some may have minor or isolated deficiencies that do not adversely affect the POA effectiveness.
- All sampled scour critical bridges subject to a triggering event are monitored in accordance with the POA, but minor deficiencies in documentation of monitoring may exist.

Non-Compliance (NC): One or more SC criteria are not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Review MAR18 Summary and resolve previously identified unevaluated bridges.
- Assess based on previous review results, the status of any new compliance deficiencies, and from the reviewer's knowledge and awareness of the State's processes and practices.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Randomly sample bridges to review files to verify that scour evaluations are documented, consistent with bridge conditions, and properly assess scour vulnerability.
- From the random sample, verify that POAs are developed and documented for those that are scour critical or have unknown foundations.
- Include some bridges from this metric's random sample in the Metric 12 and 22 field review sample, to verify validity of scour evaluations.
- If a triggering event has occurred to a sampled bridge during the 2-year period prior to the year of assessment, review file and conduct interviews as necessary to verify that monitoring was executed in accordance with POA.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – Conduct in accordance with national direction and guidelines.

Population: Metric 18 criteria:

Criteria for bridges requiring scour evaluation:

- Item 42B = 5, 6, 7, 8, 9 (all bridges over waterways) or
- Item 113 < or > N

Criteria for bridges requiring a scour POA:

- Item 113 < 4 (scour critical bridges) or
- Item 113 = U (bridges over water with unknown foundations)

Compliance levels: POA *deficiencies* leading to a SC determination could be either lack of adequate documentation or ineffective monitoring. Lack of documentation could include inadequate or outdated information for emergency contacts, scour information, etc.

A *documented scour evaluation* should be a report with calculations, a documented assessment, or documented screening process explaining how the Item 113 value was determined. This evaluation should be available for every bridge over water.

Ineffective monitoring could involve situations where monitoring thresholds are poorly chosen or not clearly identified, or there was some confusion on what to monitor for or in what priority.

SC instances represent minor or isolated situations. POAs with major or significant shortcomings that render them useless for mitigating scour risks are NC findings.

Assessment levels: *Previously identified unevaluated bridges* in the MAR are those which have been coded as 6/ T/ null in Item 113 – Scour Critical Bridges. The resolution of these items at the Min-AL is to verify that those bridges have been evaluated for scour.

At the Min-AL for Metric 18, any State bridge-specific procedures need not be assessed during the field reviews of any bridges under Metric 12, which may include bridges that are scour critical and require a POA. If a specific issue related to Metric 18 is found for bridges field reviewed under Metric 12, it should add to the reviewer's knowledge and awareness of compliance toward Metric 18, and consider reviewing Metric 18 at the Int-AL in the current or following review year, to further assess the extent of the issue. Discuss particular findings with the State and document them in the FSM.

Conversely, at the Int-AL for Metric 18, for bridges selected for both field and file review, any field findings should be applied directly to the compliance determination for Metric 18.

At the Int-AL, the process for determining the number and selection of sample bridges from this metric for inclusion in the field review for Metrics 12 and 22 is covered in Metric 12, and is repeated here in part. The Sampling Tool will automatically select a target number of bridges from this metric for the Metrics 12 and 22 field reviews if available in the selected geographic area (see [selection criteria](#) on the [NBIP SharePoint site](#) for field bridge selection). If fewer than the target are available, the reviewer is not expected to go outside of the geographic area to review additional bridges.

At the Int-AL, the field review of the sampled bridges should verify scour vulnerability coding compared to actual conditions, in addition to the other aspects of field review conducted under Metric 12 and 22. Also, for bridges requiring a scour POA, evaluate conditions on site to determine compatibility to the actions required in the plan. If a scour 'triggering event' has occurred within the

2-year period prior to the year of assessment (2 full calendar years prior), then determine if the POA was followed through record review, and through interview if the records are inconclusive.

Metric Assessment Report (MAR): The MAR includes all bridges over waterways for the metric population, based on the most recent and previous April NBI submissions.

The MAR has a summary tab and a data tab. The data tab shows the status of each bridge based on NBI Item 113 in the most recent and the previous year's NBI submissions. It also indicates whether a POA is required (if the bridge is scour critical or has an unknown foundation).

For all assessment levels, the status of all bridges listed as *not evaluated* (NBI Item 113 code = '6' or blank), identified as red items, must be resolved. The data tab provides columns for overriding the result and for providing comments or explanations based on the review.

For newly constructed or acquired bridges, a scour evaluation may be completed up to 1 year after acquisition.

Background/ changes for PY 2018: *The population for this metric now applies to all bridges over water when assessing completion of scour evaluations. Previous assessment at the Int-AL only applied to bridges evaluated as scour critical, not yet evaluated, or having unknown foundations. The Min-AL no longer requires verification of POAs for scour critical bridges.*

NBIS Reference: 23 CFR 650.313 (f) – Complex bridges**Criteria**

- Complex bridges have the following identified:
 - specialized inspection procedures
 - additional inspector experience and training
- Complex bridges are inspected according to the procedures.

Population: Bridges for the entire State that are complex bridge types that are open to traffic.

Compliance Levels

Compliance (C): All of the following must be met for C:

- All sampled complex bridges have specialized documented inspection procedures, and have any required additional inspector training and experience identified.
- All sampled complex bridges are inspected according to the specialized procedures, and inspectors of those bridges have the identified additional training and experience.

Substantial Compliance (SC): All of the following must be met for SC:

- At least 90% of sampled complex bridges have specialized documented inspection procedures, and have any required additional inspector training and experience identified.
- At least 90% of sampled complex bridges are inspected according to the specialized procedures, and inspectors have the identified additional training and experience.

Non-Compliance (NC): One or more SC criteria not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Assessment Levels (AL)

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Assess based on previous review results and the reviewer's knowledge and awareness of complex bridge inspection procedures.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Randomly sample bridge files to verify that bridges have documented specialized inspection procedures, and that any additional inspector training and experience has been identified and met.
- Review sample bridge reports to verify that documented procedures were followed.
- Include some bridges from this metric's random sample in the Metric 12 and 22 field review sample, to verify documented procedures were followed.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – Conduct in accordance with national direction and guidelines.

General: *Complex features* found in complex bridges include, but are not limited to:

- suspension cables
- stay cables
- anchorages of cables and post-tensioning
- electrical systems
- mechanical systems
- operational systems and controls
- other unusual characteristics which may include:
 - floating bridge components
 - materials with known problems
 - special seismic features

Features may be considered complex due to design, constructability, and/or inspectability issues.

Complex bridges must be inspected according to the written inspection procedures for the bridge and by inspectors with the additional training and experience specified. This should result in thorough inspections yielding accurate condition assessments.

Specific risk factors include, but are not limited to:

- complex structural response
- difficult to access
- specialized inspection equipment needs
- high ADT & ADTT
- low redundancy
- history of past problems

By identifying these conditions or risk factors in the inspection procedures, the complex bridge inspectors can appropriately prepare for and perform a thorough inspection.

Population: Complex bridges are defined in the NBIS as movable, suspension, cable stayed, and other bridges with unusual characteristics. Criteria for Metric 19:

- Item 43B = 13, 14, 15, 16, or 17

States have the flexibility to define additional bridges considered complex because of unusual characteristics. If additional bridge types are considered complex, include them in the population.

Compliance levels: Acceptable *specialized documented inspection procedures* are required in the NBIS for specific types of more complex inspections, including for complex bridges. Such procedures address items that must be communicated to the inspection team leader to ensure a successful inspection. These inspections must be planned and prepared for, taking into account identified complex features (detailed above), risk factors (detailed above), inspection methods and frequencies, and the required qualifications of inspecting personnel. The AASHTO MBE, Section 4, discusses general considerations regarding inspection plans.

An owner may include general inspection procedures in the bridge inspection manual that address common aspects of inspecting particular features; however, each complex bridge with unique elements requiring special inspection must have specific written inspection procedures. These procedures must identify which features have unusual characteristics and detail how to inspect them. The prior inspection report is valuable to review for previous inspection findings, but most often does not serve the same purpose as the inspection procedures. The inspection report records what an inspector actually did, what was looked at, and what was found. Procedures lay out what should be done, looked at, etc. However, the required procedures may be incorporated into the report, often as an introductory section. This is an acceptable practice.

Assessment levels: At the Min-AL for Metric 19, any State bridge-specific procedures need not be assessed during the field reviews of any bridges under Metric 12, which may include bridges requiring underwater inspections. If a specific issue related to Metric 19 is found for bridges field reviewed under Metric 12, it should add to the reviewer's knowledge and awareness toward Metric 19, and consider reviewing M19 at the Int-AL in the current or following review year, to further assess the extent of the issue. Discuss particular findings with the State and document them in the FSM.

Conversely, at the Int-AL for Metric 19, for bridges selected for both field and file review, any field findings should be applied directly to the compliance determination for Metric 19.

At the Int-AL, the process for determining the number and selection of sample bridges from this metric for inclusion in the field review for Metrics 12 and 22 is covered in Metric 12, and is repeated here in part. The Sampling Tool will automatically select a target number of bridges from this metric for the Metrics 12 and 22 field reviews if available in the selected geographic area (see [selection criteria](#) on the [NBIP SharePoint site](#) for field bridge selection). If fewer bridges than the target are available, the reviewer is not expected to go outside of the geographic area to review additional bridges.

For file reviews, evaluate the inspection procedures for compatibility with the inspection reports and the bridge plans.

The field reviews should verify the complex bridge designation, in addition to the other aspects of field review conducted under Metric 12 and 22.

For those bridges selected from this metric for field review, the reviewer should look for any evidence of risk factors or unique circumstances or conditions at each site. Then evaluate whether the inspection procedures and inspection reports adequately address them.

Background/ changes for PY 2018: *No substantial changes were made to this metric. Minor clarifications and editorial corrections were made.*

NBIS Reference: 23 CFR 650.313 (g) – QC/QA

Criteria

- Systematic quality control (QC) and quality assurance (QA) procedures are used to maintain a high degree of accuracy and consistency in the inspection program.
- QC/QA procedures include periodic field review of inspection teams, periodic refresher training requirements, and independent review of inspection reports and computations.

Population: None (or as determined to be appropriate by the reviewer).

Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none">• QC/QA procedures are established, documented, implemented, and effective.• QC/QA procedures include periodic field review of inspection teams, periodic refresher training requirements, and independent review of inspection reports and computations. <p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none">• QC/QA procedures are established, implemented, and effective, but minor aspects of the procedures are not documented or are not being performed.• QC/QA procedures include periodic field review of inspection teams, periodic refresher training requirements, and independent review of inspection reports and computations. <p>Non-Compliance (NC): One or more SC criteria are not met.</p> <p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
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Assessment Levels (AL)	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none">• Monitor PCA if in effect.• Assess based on previous review results and the reviewer's knowledge and awareness of QC/QA procedures. <p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none">• Review written procedures to verify that the key components of the QC/QA procedures meet the requirements of the NBIS.• Verify that a process exists to document the bridges that have received QC or QA.• Review documentation of QA reviews for number of reviews, types of reviews and findings; verify that any measurable review requirements have been achieved.• Assess whether the procedures are effective in improving program accuracy and consistency, by determining if actions resulting from the QA findings are being taken.• Perform interviews of personnel responsible for QC and/or QA reviews to determine or verify procedures are used. <p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none">• Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.• National InD-AL – Conduct in accordance with national direction and guidelines.
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General: This metric evaluates if the QC/QA process meets the intent of the NBIS, verifies that the reviews are performed, and ensures that review results are used to maintain a high degree of accuracy and consistency in the inspection program.

FHWA's recommended QC/QA framework can be found at <http://www.fhwa.dot.gov/bridge/nbis/nbisframework.cfm>.

Criteria: *Computations* include but are not limited to load rating and scour evaluation calculations.

Review of Inspection Reports should also include review of the NBI data associated with the inspection.

Population: A population was not defined for this metric. There are many different methods and requirements by which Agencies perform QC/QA review of inspections, load ratings, NBI data, and other computations.

However, if the established QC/QA process lends itself to random sampling, the reviewer may use the NBIP assessment sampling criteria to review the various aspects of QC/QA process.

Compliance levels: *Implemented* QC/QA procedures infers that the procedures are enacted and used.

When evaluating this metric, consider if repetitive errors are found during the review of Metrics 12, 13, 18, and 22, as this may be an indication that the QC/QA procedures are ineffective.

If minor aspects of the QC/QA process are not being performed, but the overall effectiveness is not impacted, this would be considered SC. An example of *minor aspects* would be cases where a QC/QA check was performed, but documentation of the check is missing.

Assessment levels: The Min-AL is based upon the reviewer's knowledge and awareness the agencies QC/QA program and if the procedures are being followed.

Key components include periodic field review of inspection teams, periodic bridge inspection refresher training for program managers and team leaders, and independent review of inspection reports, NBI data, and computations.

At the Int-AL, review documented procedures for performing QC/QA of inspections, NBI data, and calculations to verify that the procedures include all NBIS required components.

Verify that established criterion exists for refresher training as part of this metric. Evaluate adherence to the established criteria by the program manager and team leaders as part of Metrics 2 and 3, respectively.

The QC/QA procedures should include a process to document and confirm that QC/QA procedures are being followed.

Verify that the information from the QC/QA process is used to maintain a high degree of accuracy and consistency in the inspection program. For example, if the review process finds a common coding error on several QA reviews, verify that the corrective action is disseminated (quarterly meetings, refresher training, memos, etc.) to all inspection teams.

In addition to the QC/QA of owner's activities, verify that the procedures address the QC/QA of consultants and/or other agencies that perform inspections or calculations.

Interview personnel responsible for QC and/or QA to determine their level of understanding of the QC/QA process and if it is effective at maintaining a high degree of accuracy and consistency in the inspection program. At a minimum, one person should be interviewed, but this number can vary based upon the size of the program.

Background/ changes for PY 2018: *No substantial changes were made to this metric. Minor clarifications and editorial corrections were made.*

NBIS Reference: 23 CFR 650.313 (h) – Follow-up on critical findings**Criteria**

- A procedure is established to assure that critical findings, as defined in 650.305, are addressed in a timely manner.
- FHWA is periodically notified of the actions taken to resolve or monitor critical findings.

Population: All bridges identified by State criteria as having an active critical finding at the time of the last assessment, and any critical findings identified since the last assessment.

Compliance (C): All of the following must be met for C:

- A documented procedure has been established and implemented to assure critical findings are addressed in a timely manner.
- All critical findings are addressed and documented in accordance with the procedure.
- The period for notifying the FHWA of actions taken is established and followed.

Substantial Compliance (SC): All of the following must be met for SC:

- A documented State procedure has been established and implemented to assure critical findings are addressed, but timeframes for addressing critical findings are not clearly defined.
- All critical findings are addressed in accordance with the procedure; isolated instances exist where documentation of actions taken is incomplete.
- The period for FHWA notification of actions taken is established; FHWA was notified of critical findings in all but a few isolated instances, and was notified within the established period in all but a few isolated instances.

Non-Compliance (NC): One or more SC criteria are not met.

Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).

Minimum Assessment (Min-AL): Perform all of the following:

- Monitor PCA if in effect.
- Monitor the periodic notifications to confirm that critical findings are being addressed.
- Verify the status of any critical findings during field reviews of bridges for Metrics 12 and 22.
- Assess based on previous review results and the reviewer's knowledge and awareness of the State's process for addressing critical findings.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Verify that the established critical finding procedure meets the requirements of the NBIS.
- Randomly sample bridges and review the bridge files to ensure that actions taken and documentation were in accordance with the established procedure, and that proper notifications of critical findings were provided.
- Include some bridges from this metric's random sample in the Metric 12 and 22 field review sample, to verify that findings were addressed according to procedures.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – Conduct in accordance with national direction and guidelines.

Compliance Levels**Assessment Levels (AL)**

Population: The bridges identified for the Metric 21 population are taken from the State's periodic reporting of critical findings to FHWA. This reporting includes critical findings that occurred on bridges owned by State, local, and other agencies.

Identify the reported bridges in the Sampling Tool to create a population for Metric 21 prior to developing the field review sites. Additionally, when the NBI data is loaded into the Tool, include in the Metric 21 population bridges with a condition rating for Items 59-60 or 62 that are less than or equal to 2 (Critical).

Active critical findings are those in which the owner has not taken or completed action to address public safety including closure, repair, or replacement of the bridge.

Compliance levels: *Timely* for this metric is established in the State's procedure for addressing critical findings.

Addressed means that the owner has taken actions to protect public safety including closure, repair or replacement of the bridge.

The critical finding procedure must identify the permissible timeframe from when a critical finding is identified to when the structural or safety concern is addressed. If the procedure does not identify timeframes for addressing critical findings, this should be considered SC.

At the Substantial Compliance level, there may be isolated instances where the critical finding has been properly addressed but the actions taken are not documented. This may include missing documentation for completed work or failure to close out the critical finding after work is completed.

The maximum suggested interval for periodic *FHWA notification* is 3 months.

In an isolated instance where a critical finding was not reported to the FHWA pursuant to the policy, this is considered SC.

Assessment levels: At both the Min and Int-AL, the Sampling Tool will automatically select a target number of bridges with CFs in the sample for Metrics 12 and 22 field reviews if they exist in the selected geographic area. See [selection criteria](#) on the [NBIP SharePoint site](#) for field bridge selection. If fewer than the target number are available, the reviewer is not expected to go outside of the geographic area to review additional bridges. At both assessment levels, verify the status of any additional bridges with CFs that may also have been selected in the field review sample.

Verify the status of the critical finding to identify whether the actions proposed for the critical finding have been completed such as closure, repair, or replacement of the bridge.

At the Min-AL, monitor the periodic notifications from the State to verify that critical findings are addressed. Verify throughout the year when the notification is received. If a critical finding is not being addressed in timely manner, work to address the critical finding and consider reviewing this metric at the Int-AL in the current or following review year, to further assess the extent of the issue.

At the Int-AL, review files to check that critical findings have adequate *documentation* to track the status of the actions proposed and whether they were completed. If a bridge in the random sample is included based only on having a condition rating ≤ 2 , determine whether the bridge should have qualified under the State criteria as a critical finding. If so, notification should have been provided to FHWA and the reviewer should determine if this is an isolated occurrence or an indication of a more widespread issue.

When performing the review for this metric, consider how critical findings are monitored for bridges owned by local agencies.

If a critical finding for a bridge does not meet the intent of the NBIS regulation, it can be removed from the population.

Background for PY 2018: This metric has been revised to include a check for critical findings that may have not been reported to FHWA, and also to perform field visits of critical finding bridges selected by the sampling tool.

NBIS Reference: 23 CFR 650.315 (a) – Prepare and maintain an inventory

Criteria	<ul style="list-style-type: none">• An inventory of all bridges subject to the NBIS is prepared and maintained.• Data collected is in accordance with that required for the Structure Inventory and Appraisal (SI&A) sheet.• Data is recorded according to FHWA procedures and available for collection by FHWA as requested.
	<p>Population: Bridges for the entire State or selected geographic/owner subset that are open to traffic, and have been inspected since January 1 of the previous calendar year.</p>
Compliance Levels	<p>Compliance (C): All of the following must be met for C:</p> <ul style="list-style-type: none">• At least 95% of the sampled bridge inventory items reviewed are within the acceptable tolerances.• FHWA data checks did not identify any bridges with data errors. <p>Substantial Compliance (SC): All of the following must be met for SC:</p> <ul style="list-style-type: none">• At least 90% of the sampled bridge inventory items reviewed are within the acceptable tolerances.• No errors are identified in the Persistent Error Report, all other errors identified in the other FHWA Data Checks are resolved within 90 days. <p>Non-Compliance (NC): One or more SC criteria are not met.</p> <p>Conditional Compliance (CC): Adhering to FHWA approved plan of corrective action (PCA).</p>
Assessment Levels (AL)	<p>Minimum Assessment (Min-AL): Perform all of the following:</p> <ul style="list-style-type: none">• Monitor PCA if in effect.• Perform field reviews for a LOC of 80%, MOE of 15% sample of bridges or greater to verify NBI SI&A items with information in the bridge file and actual field conditions for the SI&A items identified on the Field Review Form. Resolve the safety related checks and persistent error reports generated during the NBI submittal process.• Note NBI data errors found during review of other metrics when resolving MARs and other data, for knowledge and awareness. <p>Intermediate Assessment (Int-AL): In addition to the Min-AL:</p> <ul style="list-style-type: none">• Verify NBI SI&A items with information in the bridge file and actual field conditions for an additional SI&A item group available when generating the Field Review Form, selected based on the reviewer's knowledge and awareness of the program. <p>In-Depth Assessment (InD-AL): Perform one of the following:</p> <ul style="list-style-type: none">• Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.• National InD-AL – Conduct in accordance with national direction and guidelines.

General: Metric 22 assesses the quality of NBI data and should be assessed along with the Metric 12 field reviews. Review and compare the data to the actual site conditions observed by the reviewer during the field reviews. Metric 12 in part focuses on the four main condition codes and supporting narrative resulting from the inspection (intentionally excluded from this metric), whereas this metric assesses other NBI data items associated with the bridge record.

All the NBI data should be as accurate as possible, so even if a small number of errors are found, they can be corrected.

Acceptable Tolerance is the allowable variance for an NBI item as identified in the NBIP Field Review Form. These tolerances were developed for the NBIP assessment process based upon safety, access limitations, and time constraints during the field review and must be used to assess compliance.

FHWA Data Checks are processed during the annual NBI submittal and sent to the Division and State by the National Bridge and Tunnel Inventory Engineer in the Office of Bridge Technology. *FHWA Data Checks** are as follows:

1. *National Bridge Inventory File Check* – Report generated by FHWA to identify errors when NBI data is submitted.
2. *Safety Related Checks* related to bridge closure – Report generated by FHWA to identify safety related issues. Report criteria:
 - a. Item 64 < 2.7 metric tons; item 41 = A, B, P, or R; and item 103 is blank; and
 - b. Any bridge with item 59 and/or item 60 coded < 2; item 41 = A, B, D, P, or R; and item 103 is blank.
3. *Persistent Error Report* – Report generated by FHWA to check for repeat errors over a 3-year period.

* Some identified errors in these reports are situations which are not covered in the current Coding Guide (for example, side hill viaducts), or are bridges with low operating ratings values in which the force effects of all State legal and routine permits are less than the calculated rating. Do not count such instances as data errors. If this situation occurs, document the reason for each bridge; this will also help in future year's reviews.

The *Safety Related Checks* related to physical posting (Item 64 between 2.7 and 19.9 mT or Item 41 = 'B') are assessed under Metric 14.

If necessary, update the NBI data for the subsequent annual NBI submittal.

Population: The number and selection of the field review bridges is based on a statistical random sample, consistent with other metrics. The sample is based on criteria built into the Sampling Tool to ensure selection of bridges with diverse conditions, and other characteristics. Please refer to Metric 12 commentary for a full explanation for field review bridge selection. Some is repeated here for emphasis.

Reviewing a geographic subset can reduce the amount of travel required, but all subsets for the entire State must be covered in the 5-year review cycle. The plan for review by subsets must be documented each year under extent of review in the FSM.

Geographic subsets should include all owning agencies within that subset. Rotation of subsets around the State in less than 5 years may be advantageous, allowing flexibility to focus the remaining

year(s) of the cycle on reassessment of certain areas or a statewide sample to gain an overall perspective.

If an issue of non-compliance is found in one geographic region or other subset, apply the issue to the State compliance determination, and implement an appropriate PCA. If in the following year a review is done in a different region yielding no issues, but the PCA for the previous year is not yet complete, the State is still considered to be in conditional compliance until the PCA is complete and no other compliance issues have been found.

As with other metrics, when a PCA is complete, an Int-AL review should be completed, either on the same region that had the compliance issue, for the entire State, or for some other geographic region, as long as the original region with the issue is included in the current region.

Compliance levels: When calculating the percentage of items which are within tolerance as identified in the NBIP Field Review Form, divide the total number of items properly coded by total number of items reviewed.

The following example is for a minimum level field review on 20 bridges, 15 items per bridge, of which 5 bridges are on the NHS:

NHS Bridges

15 items per bridge x 5 bridges = 75 items

Non-NHS Bridges

13 items per bridge x 15 bridges = 195 items

Percentage of items within tolerance

Total items reviewed = $75 + 195 = 270$ items

10 items exceeded allowable tolerances

270 total items - 10 items exceeding tolerance = 260 item coded within tolerance

$260/270 *100 = 96\%$ coded within tolerance

In this example, if the items exceeding the allowable tolerance were isolated instances and these items were corrected, this would be considered C. If any of the miscoded items is a systematic problem that obviously occurs beyond the field reviewed bridges, such as when one data item is incorrect for most or all 20 bridges, correct the underlying issue and the data for all bridges before a determination of C can be assigned. Until all the items are correct, the appropriate compliance determination is SC.

Data errors found during review of the other metrics represent the quality of the NBI data. When a significant number of data errors are found, for example in resolving the MARs, these errors are not a direct compliance issue for Metric 22, but consider review of such items under an Int-AL in the current or following year.

Assessment levels: The NBIP Field Review Checklist identifies which items must be reviewed at the Min-AL for each field reviewed bridge. Each year the items will be rotated, and the current items will be on the most recent NBIP Field Review Checklist on SharePoint.

At the Int-AL, in addition to the items identified at the Min-AL, review items from an additional SI&A Item category as identified on the NBIP Field Review Checklist.

During the field review of each bridge, verify that the NBI data reported to FHWA is properly coded and reflects conditions in the field. If an item cannot be verified in the field, compare NBI data with available information in the bridge inspection reports, plans, and other records. An example of an item that may be difficult to verify in the field is *Year Built*.

Regardless of the assessment level, review the *Persistent Error Report* generated during the NBI submittal process. Errors in this report must be resolved within 30 Days of receipt of the NBI data acceptance from FHWA HQ.

Background/ changes for PY 2018: *Revised this metric to make the selection of field bridges based on a random sample, to be more consistent with other metrics. Data items to be reviewed will now be rotated each year.*

NBIS Reference: 23 CFR 650.315 (a), (b), (c) & (d) – Updating data in the inventory**Criteria**

- Structure Inventory and Appraisal (SI&A) data is submitted to the FHWA NBI as requested using FHWA established procedures.
- SI&A data is entered in the State's inventory within 90 days of the date for State owned bridges and within 180 days of the date for all other bridges for the following events:
 - routine, in-depth, fracture critical member, underwater, damage and special inspections
 - existing bridge modifications that alter previously recorded data and for new bridges
 - load restriction or closure status

Population: Bridges in the entire State.**Compliance Levels****Compliance (C):** All of the following must be met for C:

- SI&A data is submitted to the FHWA NBI by the requested date with no errors preventing FHWA acceptance of the data.
- State has a process to verify SI&A data is updated in the State inventory within 90/180 days.
- SI&A data reviewed is updated in the State inventory within 90/180 days after inspection, modification, or change in load restriction.

Substantial Compliance (SC): All of the following must be met for SC:

- SI&A data is submitted to the FHWA NBI within 10 work days of the requested date; errors preventing acceptance are resolved within 15 work days after notification by FHWA.
- State does not have a process to verify SI&A data is updated in the State inventory within 90/180 days.
- At least 90% of SI&A data reviewed is updated in the State inventory within 90/180 days.

Non-Compliance (NC): One or more SC criteria are not met.**Conditional Compliance (CC):** Adhering to FHWA approved plan of corrective action (PCA).**Assessment Levels (AL)****Minimum Assessment (Min-AL):** Perform all of the following:

- Monitor PCA if in effect.
- Verify SI&A data was submitted to the FHWA NBI and verify any issues identified were resolved in the specified timeframe.
- Assess based on previous review results and reviewer's knowledge and awareness of State's program.

Intermediate Assessment (Int-AL): In addition to the Min-AL:

- Assess how State is able to determine if bridge SI&A data is updated in the 90/180 day timeframes through interview or review of procedures.
- Randomly sample bridges using Int-AL criteria to verify bridge SI&A data is updated in the 90/180 day timeframes.

In-Depth Assessment (InD-AL): Perform one of the following:

- Division InD-AL – In addition to the Int-AL, develop guidelines for review, with concurrence from BSE, and conduct in accordance with guidelines.
- National InD-AL – Conduct in accordance with established national direction and guidelines.

General: The 90/180 day requirement for updating SI&A data refers to data entered into the State inventory. Updated SI&A data should be available in a central location for submittal to FHWA upon request. The 90/180 day timeframe starts at the completion of the specific activity (inspection, load rating, etc.). Local agencies must submit the SI&A data changes to the State within 180 days of the completion of the activity.

Population: To refine the scope of review of the updates to the NBI, review bridges for the entire State that are open to traffic, and have been inspected since January 1 of the previous calendar year, for all inspection types, bridge modification types, and capacity status.

Compliance levels: If SI&A data is submitted to the FHWA NBI beyond the requested date but within 10 work days of the requested date, this is considered SC. Further, if errors in the data prevent FHWA from accepting that data, but those errors are resolved within 15 work days after FHWA notifies the State of those errors, this is also considered SC. Track the submittal and re-submittal dates from the State to determine if this timeline is met.

If bridge records or State policy/procedures do not have a process to verify that SI&A data is updated in the State inventory within 90/180 days, notify the PM of the finding in writing, and assess the metric as SC.

At the Int-AL, for the random sample, the metric is assessed on a ‘per bridge’ basis. If all SI&A data for the bridge is updated in the 90/180 day timeframes, then the bridge is a positive data point toward compliance. Conversely, if one or more SI&A data items for the bridge are not updated in the 90/180 day timeframes, then the bridge is a negative data point.

Assessment levels: As identified in the Annual Call for Update of the National Bridge Inventory memorandum, a State should run the error check on UPACS and address any errors prior to submittal of the data. Alternatively, an internet version of this error check, *NBI Submittal File Check*, is available on FHWA’s Website at <http://www.fhwa.dot.gov/bridge/nbi.htm>.

If an unusual circumstance arises and the State requests a time extension beyond the identified submittal date, the Division must coordinate with the NBI Engineer in the FHWA Office of Bridges and Structures to determine if a time extension is acceptable and to establish a revised submittal date.

Compliance with the 90/180 day timeframes – at the Int-AL, *assess how State is able to determine if bridge SI&A data is updated in the 90/180 day timeframes* by determining if the State has the ability to verify that data is being updated into the State inventory within 90/180 days of inspection, modification, or changes in load restrictions. Verify this by interviewing the person responsible for managing the data or reviewing the relevant procedures.

Background/ changes for PY 2018: This metric has been updated to assess whether the SI&A data is submitted to the FHWA NBI in a timely manner through a random sample, instead of assessing the data from those bridges found as overdue in the frequency metrics.

Scope of Services Meeting Date: **/**/**
Approved Final Scope of Services Minutes Date: **/**/**

GENERAL ENGINEERING SERVICES

Central Office, Office of Structural Engineering

Scope of Services

The CONSULTANT may be required to perform the following services on a task order type basis for bridges designated by regulation or by agreement as City or Village inspection responsibility. Consultants must be prequalified for Level 1 Bridge Inspection services, which may include but are not limited to the following:

Task 1 - Scour Tasks

- Task 1A - Scour Critical Assessment
- Task 1B - Scour Plan-of-Action

Task 2 - Load Rating Tasks

- Task 2A - Field Measurements for Load Rating
- Task 2B - Load Rating Calculations

Task 3 – AssetWise Structure Inventory and Review, Including New SNBI Fields

Task 4 – Inspection Procedures

- Task 4A - Fracture Critical Plan
- Task 4B – Underwater Inspection Procedures

Task 5 - Bridge Inspection

- Task 5A – Routine Bridge Inspection
- Task 5B – Fracture Critical Inspection
- Task 5C – Underwater Dive Inspection

Services shall be conducted in accordance with the following:

- ODOT Manual of Bridge Inspection, Latest Version
- ODOT Bridge and Inventory Coding Guide, Latest Version
- ODOT Bridge Design Manual, Section 900), Latest Version
- Hydraulic Engineering Circulars 18, 20 and 23
- The Manual for Bridge Evaluation, Third Edition 2019 interim with revisions, AASHTO

Publication

- Bridge Inspector's Reference Manual, FHWA NHI Publication Number: 12-049,
 Publication Year: 2012
- Underwater Bridge Inspection, FHWA Publication Number: FHWA NHI-10-027,
 Publication Year: 2010

The CONSULTANT shall maintain a project cost accounting system that will segregate costs for individual task orders. The invoicing progress reports shall be detailed enough to show the breakdown of each assigned structure indicating the status of all subtasks. Completion of the individual subtasks is necessary for reimbursement credits.

The duration of the agreement will be twelve (12) months from the authorization date of the agreement.

The Department will be performing an annual Quality Assurance Review (QAR) for each selected consultant in accordance with Manual of Bridge Inspection to ensure accuracy and consistency of the inspection and documentation in AssetWise. This typically includes an office and field review.

The project will be divided into four (4) sub-projects (SP). A CONSULTANT will be selected for each sub-project. Municipalities opted into the previous inspection program will have the option to renew their legislation. Municipalities with population greater than 50,000 people are excluded from the program. The sub-projects have the following general geographic areas, category characteristics, and maximum contract values for the municipalities with municipal inspection responsibility obtained from AssetWise data as of July 2022.

Project: SP01 - District (1, 2, &3), Total Structures = 485*

Type	L <= 20'	20' < L <= 60'	60' < L <= 200'	L > 200'	Total
Single Span	192	178	26	0	396
Multi-Span	24	20	31	14	89
Culvert	119	29	1	0	149
Truss	0	1	3	0	4
Fracture Critical Inspection	0	0	2	0	2
Underwater Inspection	0	0	0	0	0
Load Rating**	108	99	29	7	243

* Level 1 Bridge Inspection structures

** Tasked as budget allows w/priority for NBI bridges with many BrR updates

Project: SP02 - District (4, 11, &12), Total Structures = 392*

Type	L <= 20'	20' < L <= 60'	60' < L <= 200'	L > 200'	Total
Single Span	127	126	35	0	288
Multi-Span	22	25	37	20	104
Culvert	84	40	1	0	125
Truss	1	2	6	0	9
Fracture Critical Inspection	0	0	3	0	3
Underwater Inspection	0	0	0	0	0
Load Rating**	75	76	36	10	197

* Level 1 Bridge Inspection structures

** Tasked as budget allows w/priority for NBI bridges with many BrR updates

Project: SP03 - District (5, 6, &10), Total Structures = 515*

Type	L <= 20'	20' < L <= 60'	60' < L <= 200'	L > 200'	Total
Single Span	189	206	40	0	435
Multi-Span	11	11	37	21	80
Culvert	111	87	4	0	202
Truss	0	0	7	0	7
Fracture Critical Inspection	0	0	7	1	8
Underwater Inspection	0	0	0	0	0
Load Rating**	80	87	31	8	259

* Level 1 bridge inspection structures

** Tasked as budget allows w/priority for NBI bridges with many BrR updates

Project: SP04 - District (7, 8 &9), Total Structures = 508*

Type	L <= 20'	20' < L <= 60'	60' < L <= 200'	L > 200'	Total
Single Span	177	157	36	1	371
Multi-Span	29	45	49	14	137
Culvert	126	85	3	0	214
Truss	0	0	7	1	8
Fracture Critical Inspection	0	1	4	1	6
Underwater Inspection	0	0	0	0	0
Load Rating	103	101	43	8	255

* Level 1 bridge inspection structures

** Tasked as budget allows w/priority for NBI bridges with many BrR updates

**General Engineering Services Scope of Services
Central Office, Office of Structural Engineering
PID No. 117554**

Please note that the total number of structure types is estimated based on current AssetWise data queries, and it may be adjusted when tasks are assigned in the future which may include newly found orphan bridges. The estimated annual contract price value for each sub-project is as follows:

SP01 \$560,000
SP02 \$530,000
SP03 \$570,000
SP04 \$590,000

DBE Participation:

Project	Goal
SP01	10%
SP02	0%
SP03	0%
SP04	0%

CONSULTANT shall clearly designate in the letter of intent the SP(s) they wish to be considered for.

Three (3) copies of the letter of intent shall be submitted. The letter of intent shall demonstrate that the CONSULTANT has a clear understanding of the scope of services.

Price Proposal Due Date: **/**/**

UNDERSTANDING

1. Inspections shall be completed by firm's full-time staff prequalified with ODOT for Level 1 bridge inspection according to the Manual of Bridge Inspection.
2. Task order are intended for maintaining compliance with the FHWA 23-Metrics, Ohio Revised Code, and ODOT policy manuals. Deadlines set by the task orders shall be respected.
3. All reports and records compiled under this agreement shall become the property of the City or Village and shall be housed in the City or Village. ODOT shall receive an electronic copy of plans, analysis files, reports and other items mentioned below.
 - a) CONSULTANT shall perform all applicable updates to ASSETWISE with new or revised information for structure inventory and appraisal data, inspections, scour, fracture critical members, and load ratings.
 - b) CONSULTANT shall submit copies of all reports and calculations electronically, or in hard copies when requested, to the City or Village for inclusion in their bridge records.
 - c) This includes, as applicable, a printed copy of the inspection report, Scour Plan-of-Action, Fracture Critical Plan, load rating report, gusset plate analysis, inspection procedures, and field measurement notes, digital pictures as well as a reproducible digital data file (.pdf, .doc, .xml, and .xls formats).
4. Copies of all transmittal letters and emails related to this Task Order shall be submitted to Central Office, Office of Structural Engineering.
 - a) When required, CONSULTANTS shall locate the original construction plans, as-built, and shop drawings from archive locations specified by the municipality and upload them onto ASSETWISE.

Services to be furnished by CONSULTANT may include:

TASK 1 - SCOUR TASKS

Task 1A – Scour Critical Susceptibility NBIS Item 113) - The CONSULTANT shall refer to the most recent ODOT Manual of Bridge Inspection. Deliverables include field notes, a completed Scour Critical Assessment Checklist as per Appendix I of the 2014 Manual of Bridge Inspection, and any other reference material needed for the bridge owner to properly maintain their bridge files. Channel photos or cross sections maybe tasked under this item if assigned. Please use the latest scour assessment form.

Task 1B - Scour Plan-of-Action - The CONSULTANT shall refer to the most recent ODOT Manual of Bridge Inspection Appendix H for the scope of this task. Deliverables include a completed Scour Plan-of-Action, field notes, calculations, and any other reference material needed by bridge owner to maintain bridge files.

TASK 2 – LOAD RATING TASKS

Task 2A - Field Measurements for Load Rating - Should no plans exist or if additional information is required, each main member shall be field measured for load rating. The condition of the member should be noted on the field documentation. All measurements shall be included in the load rating report.

Task 2B - Load Rating Calculations – A bridge carrying vehicular traffic shall be rated to determine the safe load carrying capacity. The CONSULTANT shall review existing bridge plans and inspection reports and other inspection information such as photographs and estimates of section loss for bridge members and connections. The analysis for existing structures shall be performed for AASHTO HS20-44 [MS 18] (truck, lane, & military) loading for both inventory and operating levels, and for the four Ohio Legal Loads including the special hauling vehicles (2F1, 3F1, 4F1, and 5C1, SU4, SU5, SU6, SU7, Type 3, Type 3S2, Type 3-3, NRL, EV2, and EV3) at operating level. The CONSULTANT shall try to complete the load rating analysis utilizing BrR (Virtis) at first. Hand-calculations or Spreadsheets if BrR is not applicable. The BrR analysis file, other load rating files, and the latest BR100 shall be included with the submittal to OSE.

The inventory and operating ratings shall be coded as per the most recent version of the ODOT Bridge Inventory Coding Guide. Update ASSETWISE Inventory with the load rating results and upload BR100 pdf file.

The electronic deliverable shall include if applicable an Excel spreadsheet or other files used for analysis for each bridge which shall include the member areas, member capacities both with and without section loss, influence lines (can be the ordinates or graph of the lines), dead loads and dead load stresses in members, live loads and live load stresses in members for all truck loadings and the load ratings of the members. Truck loadings to be used for the ratings are specified in BDM Section 900.

The Load Rating Report shall be prepared by a registered or non-registered engineer, and it shall be checked, signed, sealed and dated by an Ohio Registered Professional Engineer.

The Load Rating Report shall explain the method used to calculate the load rating of each bridge.

AASHTO Load Factor Rating (LFR) shall be utilized for all bridges not designed by Load and Resistance Factor Design. AASHTO Load and Resistance Factor Rating (LRFR) shall be utilized for all structures designed for HL93 loading starting October 2010.

Load Rating Report Submittal to the City or Village shall include:

- a. Two (2) printed copies and one electronic pdf copy of the Load Rating Report for each bridge.
- b. Final summary of inventory and operating ratings for each member and the overall ratings of the structure shall be presented for each live load truck. An acceptable format is ODOT form BR-100.
- c. Analysis program input files. Both input and output files shall be submitted when programs other than BrR or spreadsheets are used.
- d. All calculations related to the load rating.
- e. If applicable, the weight limits posting recommendations including a copy of the standard posting sign; such as R12-1 (24" x 30"), R12-H5 (30" x 48"), and R12-H7 (30" x 30").

TASK 3 – ASSETWISE STRUCTURE INVENTORY AND REVIEW

The scope of this task includes a limited review of the structure inventory data in the ODOT ASSETWISE. In general, the CONSULTANT shall review specific existing ODOT bridge inventory records (as provided by the City and approved by ODOT) of the designated bridge. The CONSULTANT may download the inventory report, which contains inventory data for each bridge on file with ODOT from the ODOT website.

The CONSULTANT shall verify this data and determine if the ODOT ASSETWISE structure file information needs to be updated on the system. If no changes are necessary, then no ASSETWISE inventory needs to be filled out. If changes are necessary, the scope of this task shall also include completing and filing inventory updates (and supplements, as needed) in ASSETWISE. The CONSULTANT shall refer to the ODOT Office of Structural Engineering Inventory and Coding Guide of ASSETWISE for inventory coding details. In 2023, ODOT will start the transition toward SNBI, the consultants shall fill out all empty fields for this purposes as communicated by OSE.

TASK 4 – INSPECTION PROCEDURES

Task 4A – Fracture Critical Plan – A Fracture Critical Member Plan and inspection procedure shall be developed and updated. For more details, refer to Chapter 4: Inspection Types in the Manual of Bridge Inspection. It shall include:

1. Sketches of the superstructure with locations of all fatigue and fracture prone details identified.
 - a. Use framing plan or schematic with detail locations labeled and a legend explaining each labeled item on the scheme.
 - b. Use an elevation view for trusses.

- c. Classify similar fatigue/fracture prone details as types (e.g. end of partial cover plate).
2. A table or location of important structural details indicating:
 - a. Type of detail (e.g. end of partial cover plate, short web gap, etc.)
 - b. Location of each occurrence of detail
 - c. AASHTO Fatigue Category of detail
 - d. Identify retrofits previously installed
3. Risk Factors Influencing the inspector access.

Photos and sketches shall be properly referenced. The CONSULTANT shall refer to the most recent ODOT Manual of Bridge Inspection for additional details on the scope of this task.

Task 4B – Underwater Inspection Procedures – An underwater inspection procedure shall be developed. For more details, refer to Chapter 4: Underwater Inspections in the Manual of Bridge Inspection. Please note that ODOT has recently revised the format of the procedures file. The diving team shall fill out or update the latest form and upload it on ASSETWISE prior to performing the actual dives. Please contact OSE for a copy of a blank form if not uploaded on ASSETWISE at the time.

TASK 5 – BRIDGE INSPECTION

Task 5A – Routine Bridge Inspection (ASSETWISE Input) - Perform a routine field inspection of the structure to determine the general condition. The CONSULTANT shall refer to the most recent ODOT Manual of Bridge Inspection for additional details on the scope of this task. Section 1111 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) modified 23 U.S.C.144, requires Ohio to report bridge element level data for NBIS bridges on the National Highway System (NHS) to FHWA. A condition rating or element level inspection will be assigned. This task includes Condition Rating Inspection for non-NBI structures, Condition Rating Inspection for NBI structures, and Element Level Inspection for NBI classified as NHS. The consultant shall probe the channel around the footing in water to determine depth of scour and report the date in AssetWise.

Task 5B – Fracture Critical Inspection - Perform a fracture critical field inspection of fracture critical items. The CONSULTANT shall update the FCM inspection procedure with current photos and descriptions. The CONSULTANT shall refer to the most recent ODOT Manual of Bridge Inspection for additional details on the scope of this task.

Task 5C – Underwater Dive Inspection – Perform Underwater/ In-Water inspection of substructure units according to the cycle shown in ASSETWISE. Emergency underwater inspection may arise for specific structures over the duration of the contract period. Work shall be done in accordance with the reference manuals and inspection procedure. Scour risk shall be evaluated after field and data collection.



CLEVELAND HEIGHTS

AGENDA (tentative) - CLEVELAND HEIGHTS CITY COUNCIL MEETING

Monday, September 19, 2022

Regular Meeting

7:30 p.m.

**Cleveland Heights City Hall
Council Chambers
40 Severance Cir
Cleveland Heights, Ohio**

- 1) Meeting called to order by Council President**
- 2) Roll Call of Council Members**
- 3) Excuse absent members**
- 4) Approval of the minutes from previous meeting(s) on June 27, 2022, July 7, 2022 and August 1, 2022**
- 5) Communications from the Mayor**
- 6) Report of the Clerk of Council**

Notify Council that one notice has been received from the Ohio Division of Liquor Control advising that applications have been made by the following:

- Hunan Coventry Mingli, Inc dba Hunan on Coventry, 1800 Coventry Rd. Cleveland Heights, OH 44118 for a transfer of a D5/D6 permit to Hunan Coventry LLC, 1800 Coventry Rd. Cleveland Heights, OH 44118.

Matter of Record

Referred to: The Mayor, Chief of Police, and the Director of Law

- 7) Public Comment - Agenda Items only**

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda. Comments unrelated to the agenda may be made after Committee Reports

8) LEGISLATION

Note: The title for each piece of legislation contains a parenthetical reference to the Council Committee within which the subject matter of the legislation falls. Council Committees are abbreviated as follows: (AS)-Administrative Services; (COTW)-Committee of the Whole; (CRR)-Community Relations and Recreation; (F)-Finance; (HB)-Housing and Building; (MSES)-Municipal Services and Environmental Sustainability; (PD)-Planning and Development; (PSH)-Public Safety and Health. See Resolution 97-2022 for a list of Council Committee subject matter areas.

a. First Readings – Consideration of Adoption Requested

ORDINANCE NO. 135-2022 (F): First Reading. An Ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

ORDINANCE NO. 136-2022 (F): First Reading. An Ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriation and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022; increasing Council's budget to provide funds for additional operating expenses, and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by President Hart

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 137-2022 (PD): *First Reading*. A Resolution authorizing the Mayor to enter into an amendment to a lease agreement with WXZ CPV LLC; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 138-2022 (PSH): *First Reading*. A Resolution authorizing the Mayor to enter into an agreement with All City Management Services, Inc. for crossing guard services; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 139-2022 (MSES): *First Reading*. A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to provide Bridge Inspection Services within Cleveland Heights and authorizing the Mayor to enter into any contracts with ODOT needed to complete said project; and declaring that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 140-2022 (CRR): *First Reading*. A Resolution authorizing the Mayor to file an application and enter into an agreement with the Ohio Department of Natural Resources for the purpose of acquiring funds through the Division of Forestry's *Urban Forestry Assistance Program*; and declaring the necessity that this become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

b. Second Readings

RESOLUTION NO. 130-2022 (F): *Second Reading*. A Resolution accepting the amounts and rates as determined by the Budget Commission, authorizing the necessary tax levies and certifying them to the County Fiscal Officer, and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 131-2022 (F): *Second Reading*. A Resolution requesting the County Fiscal Officer to advance taxes from the proceeds of the 2022 tax year collection pursuant to Section 321.34 of the Ohio Revised Code, and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

ORDINANCE NO. 132-2022 (MSES). *Second Reading*. An Ordinance authorizing the Mayor to enter into an agreement for recycling processing services between the City of Cleveland Heights and Waste Management and declaring an emergency.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

c. **Third Readings**

ORDINANCE NO. 78-2021 (PSH) Third Reading. An Ordinance enacting and adopting Chapter 522 “Lead Hazards,” of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights; repealing Chapter 1347, “Certificate of Occupancy,” of Part Thirteen, Building Code, of the Codified ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 1347, “Certificate of Occupancy,” and amending Section 1345.99, “Penalty,” of Chapter 1345, “Enforcement and Penalty,” of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

d. **Consent Agenda**

Note: Individual Consent Agenda items are not discussed separately during the Council meeting, unless removed from the Consent Agenda on the request of a member of Council. Once an item is removed from the Consent agenda it will be placed on the Regular Agenda.

RESOLUTION NO. 141-2022 (CRR): First Reading: A Resolution joining communities throughout the nation in proclaiming October, 2022 *National Breast Cancer Awareness Month*; October 13, 2022, *Metastatic Breast Cancer Awareness Day*; and October 21, 2022, *National Mammography Day*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

RESOLUTION NO. 142-2022 (CRR): First Reading. A Resolution proclaiming October 2022 as *Domestic Violence Awareness Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to suspend rules: _____/_____

Vote: _____
For _____ Against _____

Motion to Adopt/Second: _____/_____

Vote: _____
For _____ Against _____

11) Committee Reports

- a.)** Public Safety and Health Committee
- b.)** Community Relations and Recreation Committee
- c.)** Finance Committee
- d.)** Housing and Building Committee
- e.)** Municipal Services Committee
- f.)** Planning and Development Committee
- g.)** Committee of the Whole

12) Public Comment - General

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda.)

13) Old Business

14) New Business

15) Council Member Comments

(Note: A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda. Council comments should not be personal reflections but be about the business of the city.)

16) Council President's Report

17) Adjournment

NEXT MEETING OF COUNCIL: MONDAY, OCTOBER 3, 2022



Monday, June 27, 2022 Minutes

SPECIAL CITY COUNCIL MEETING

4:30 – 6:30 p.m.

Vice President Cobb presiding

Roll Call:	Present:	Russell, Mattox, Moore, Larson, Cobb
	Present via Zoom:	Cuda, Hart
	Absent:	None

Also Present: Mayor Seren, Hanna, Himmeltein, Prosser, Smith, Zamft

Mayor Seren made a statement regarding the recent events and said, like many of us, he was not surprised when he heard the news that the U.S. Supreme Court denied a person's right to choose an abortion. He was saddened and angered by this injustice. He had several things to say to the people of Cleveland Heights, but first, he wanted to state unequivocally that abortion is healthcare and healthcare is a human right. He said the Supreme Court chose party over country and ideology over humanity in the Dobbs decision and real people and our nation as a whole will suffer for it. He said the right to make a private healthcare decision and determine what happens to your own body is foundational to liberty. He said the state of Ohio, empowered, has leapt into action to deny that freedom by instituting a 6-week abortion ban that will directly and negatively impact people right here in Cleveland Heights. He said he wanted to reassure the people of the City that he stands with them to defend their right to choose an abortion, to make their own private healthcare decisions without government interference and he is here to stand with them through any stigma around the choice they make. He said Cleveland Heights is not new to this fight, referencing Resolution No. 30-2019 condemning any attempt by local, state or federal government to prohibit access to abortion care and authorizing the Law Department to join in providing participation in the legal defense of abortion rights. He called on City Council to join him in giving substantive support to Cleveland Heights residents that will be impacted by the decision by setting aside funds to support travel and other costs for people who need to leave Ohio to seek abortion care. He also asked for their support in adding a person's reproductive health decisions to the anti-discrimination ordinances. He said it won't stop here, all of our rights are intertwined. Along with abortion, he said the Supreme Court will take our rights to privacy and bodily autonomy. He asked for Council's support moving forward.

Cleveland Heights "Department 101" Presentations

Director Anna Smith gave a presentation on the Human Resources Department.

Director Ryan Prosser gave a presentation on the IT Department.

Director Amy Himmelein gave a presentation on the Finance Department.

Director William Hanna gave a presentation on the Law Department.

Director Mike Thomas gave a presentation on the Community Services Department.

Director Eric Zamft gave a presentation on the Planning & Development Department.

LEGISLATION

First Readings

a. First Readings - Consideration of Adoption Requested

RESOLUTION NO. 99-2022 (MS), First Reading. A Resolution authorizing the Mayor to enter into an agreement with the Ohio Department of Transportation for federal funding for the Lee Road Resurfacing Project; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilor Moore, Seconded by Councilor Larson

Roll Call: Ayes: Russell, Mattox, Cuda, Moore, Hart, Larson, Cobb
 Nays: None

Legislation Passed

RESOLUTION NO. 100-2022 (F), First Reading. A Resolution acknowledging receipt from the Cedar Fairmount Special Improvement District of a Plan for public services and improvements, and returning said Plan to the Board of Directors without comments or recommendations for changes; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Council President Hart, Seconded by Councilman Mattox

Roll Call: Ayes: Mattox, Cuda, Moore, Hart, Larson, Cobb, Russell
 Nays: None

Legislation Passed

Councilwoman Russell stated she is in support of the resolution.

***MOTION** to go into Executive Session to consider the terms of a sale or lease of City-owned real property.

Moved by Council President Hart, Seconded by Councilor Moore

Roll Call: Ayes: Cuda, Moore, Hart, Larson, Cobb, Russell, Mattox
 Nays: None

Motion Passed

NEXT REGULAR MEETING OF COUNCIL: MONDAY, AUGUST 1, 2022

Respectfully submitted,

Melody Joy Hart
President of Council

Addie Balester
Clerk of Council



CLEVELAND HEIGHTS

Monday, July 7, 2022 Minutes

SPECIAL CITY COUNCIL MEETING

5:45 – 7:05 p.m.

Vice President Cobb presiding

Roll Call: Present: Moore, Mattox, Cuda, Larson, Cobb
 Absent: Hart, Russell

Also Present: Mayor Seren, Chief Britton, Chief Freeman, Hanna, Wagner

***MOTION** to enter into Executive Session to consider the terms of a sale or lease of City-owned real property.

Moved by Councilor Moore, Seconded by Councilman Mattox

Roll Call: Ayes: Mattox, Cuda, Larson, Moore, Cobb
 Nays: None

Motion Passed

***MOTION** to amend the agenda to allow for public comment on Ordinance 105-2022.

Moved by Councilor Moore, Seconded by Councilor Larson

Roll Call: Ayes: Cuda, Larson, Moore, Mattox, Cobb
 Nays: None

Motion Passed

LEGISLATION

First Readings

a. First Readings - Consideration of Adoption Requested

RESOLUTION NO. 101-2022 (F), *First Reading*. A Resolution approving a petition for the adoption of a public services and improvements plan for the Cedar Fairmount Special Improvement District, Inc.

Motion to Adopt by Councilor Larson, Seconded by Councilor Moore

Roll Call: Ayes: Mattox, Cuda, Moore, Larson, Cobb
 Nays: None

Legislation Passed

Councilor Larson asked a procedural question about the plan that had already been approved that were answered by Assistant Law Director Wagner.

RESOLUTION NO. 102-2022 (PD), *First Reading*. A Resolution supporting the Mayor's application for grant funding under the State of Ohio Department of Development 2022 Brownfield Remediation Program to demolish the former Hillside Dairy/Former Police Annex; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Mattox, Seconded by Councilor Moore

Roll Call: Ayes: Mattox, Cuda, Moore, Larson, Cobb
 Nays: None

Legislation Passed

Councilor Larson said she's thrilled to see this is happening and it's truly a boost to the neighborhood.

RESOLUTION NO. 103-2022 (PD), *First Reading*. A Resolution authorizing the Mayor to enter into a lease agreement with WXZ CPV LLC; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Mattox, Seconded by Councilor Larson

Roll Call: Ayes: Mattox, Cuda, Moore, Larson, Cobb
 Nays: None

Legislation Passed

RESOLUTION NO. 104-2022 (AS), *First Reading*. A Resolution appointing Whitney Crook as Clerk of Council; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Cuda, Seconded by Councilor Moore

Roll Call: Ayes: Mattox, Cuda, Moore, Larson, Cobb
 Nays: None

Legislation Passed

Councilor Larson said she's happy to be here and glad it is happening. Councilman Cuda said he's pleased they found someone with experience who can hit the ground running and said it's a great first step in getting an independent co-equal branch of government. Councilor Moore said they were all extremely impressed by Ms. Crook's credentials and composure and ability to think on her feet. She thinks Ms. Crook will benefit the City a great deal. Vice President Cobb echoed all his Council member's comments. He said he felt confident based on their glowing remarks that the absent Council members would have also voted yes if they were here tonight.

b. First Reading Only

ORDINANCE NO. 105-2022 (AS), First Reading An Ordinance amending Section 137.06, "Positions in Classified Service", of the Codified Ordinances of the City of Cleveland Heights to remove the positions of Chief and Assistant Chief from the classified service of the City; and declaring the necessity that this Ordinance become immediately effective as an emergency measure.

Legislation Introduced

Patrick King said they appreciate the opportunity to speak to Mayor and the Council and they just found out about the legislation that day. He wanted to talk to them on behalf of the local 402 and as fire department leadership. He said he's been with the fire department for 28 years, the last 9 and 1/2 as battalion chief. He said when you look at public safety, they take an oath to protect and serve the citizens of the community and they take that very seriously. He said we have excellent public safety services in the City. He said the reason the civil service rules are in place is to provide the Chiefs with protection and give them the ability to be independent. They are in place to take politics out of public safety. He said they are not in favor of the legislation and they are not in favor of any changes to the civil service rules. He said whoever takes over leadership needs to be able to speak freely and be able to represent what is best for the citizens of the community. He said when you take away the civil service protection, they become at will employees. He said in order to protect the citizens to the best of their abilities, they need those protections.

Matt Hayes said there are no better candidates to lead the Cleveland Heights Fire Department than the people already in the Cleveland Heights Fire Department. He said given the complete leadership change that the department will be going through, it's imperative that the next Fire Chief come from within the department.

Patrick King said Assistant Chief Bryan and Chief Freeman are retiring this year and he wanted to make Council aware there are four Battalion Chiefs with over 110 years of experience

that are more than capable of running the department on an interim basis. He said there should be no rush on this issue.

Chief Britton said he also just learned about this. He said as a 27-year veteran of the department, and for each and every position he's held, he's taken that oath to the community and to the members of the Police Department. He said civil service offers him that he can do his duties to the best of his abilities and he can perform his duties speaking openly and candidly and ultimately come to a rational decision when it comes to public safety. He said there is something that needs to be said about dedication of service, loyalty, dedication of first responders. He said for the immediate future, in terms of emergency, they have candidates here that can be developed into positions of leadership down the road. He said opening it up outside of the civil service would diminish motivation and dedication. He'd like more time on his end to research how this will benefit the City as a whole.

Chief Freeman wanted to echo everything that's been said so far. He said he's been with the department for over 30 years. He said one thing you do by taking this outside of the City is take away the potential that's here.

Judy Miles, the President of the Civil Service Commission, said since she's been on the Commission they've gone from standard meetings to being a little bit more vulnerable with the numerous vacancies so they've wanted to give the best flexibility to get the right candidates. She said there are real considerations to taking the two top positions out of the civil service and those should be waived.

Mayor Seren said this was placed on the special meeting agenda with the request for first reading adoption because of the urgency in casting a net for a new Fire Chief. He said he received the Fire Chief's official retirement announcement two days ago. He said there is urgency moving forward. He said this has been a years long conversation. He said this specific legislation is one piece of a longer conversation.

Councilman Cuda said they hear two discussions that barely overlapped. He said he had so many questions and wanted to honor Council President's wishes that they discuss this at the Committee of the Whole.

Councilor Moore said she agreed Council President Hart and Councilwoman Russell would want to be part of these conversations. She said she has a lot of homework to do to understand what Civil Service is or means. She said she would like this to be discussed in the next Committee of the Whole meeting.

Councilor Larson said she agreed that she doesn't have enough information and she is not prepared to vote tonight.

Vice President Cobb said this is a big policy change being proposed and they need more time to give it consideration and thought. He said two Council Members are not present tonight, one being a labor leader, and he believes they deserve to have the opportunity to weigh in and be heard on. He also said they all need to educate themselves more on the civil service process and rules.

NEXT REGULAR MEETING OF COUNCIL: MONDAY, AUGUST 1, 2022

Respectfully submitted,

Melody Joy Hart
President of Council

Addie Balester
Clerk of Council



CLEVELAND HEIGHTS

Monday, August 1, 2022 Minutes

CITY COUNCIL

7:30 p.m. – 8:49 p.m.

President Hart presiding

Roll Call:	Present:	Russell, Mattox, Cuda, Moore, Hart, Larson, Cobb
	Absent:	None

Communications from the Mayor

The Mayor wanted to clear up the misinformation in the news media regarding the incident involving the vehicle that struck and damaged a vehicle and garage on S. Taylor at its intersection with Fairmount Blvd. The driver failed to turn and stop and crashed into the resident's truck in his driveway. Mayor Seren headed to the crash site around midnight to witness the damage firsthand. He spoke with the homeowner and neighbors concerning the incident. Prior to this particular incident, over the last 10-11 months, the Mayor consulted with the City's engineering group and the Ohio Department of Transportation. He said they were up front with the homeowner that, according to ODOT guidelines, the City of Cleveland Heights is not allowed to place a guardrail at the location. The City provided a variety of options to the homeowner at the City's cost, to address this recurring issue. The City never removed an existing guardrail or promised that a guardrail would be installed. Mayor Seren noted that National Night Out is tomorrow evening at the community center, it's always the first Tuesday of August. This is an opportunity for the community to get connected to safety forces such as the Police Department and Fire Department in a relaxed environment. This is a family friendly event. He wanted to encourage people to get out and vote for the upcoming primary election tomorrow. Go to the Board of Elections website to get info regarding your polling place.

Council President Hart asked for clarification because she received an email saying the crash was a result of a high-speed police chase.

Mayor Seren said there was no high-speed pursuit that took place. It was a traffic stop for a basic traffic infraction. When police stepped out to approach the vehicle, the driver took off speeding down S. Taylor. He said it's the City's policy to not increase hazards due to high-speed pursuits when they aren't concerned with a violent criminal or a felony. He said there was no pursuit.

Personal communications from citizens on Agenda Items only

Rhonda Davis-Lovejoy is in support of Tony Cuda's legislation. She believes it is a very important issue and stressed the importance of transparency and inclusion that comes along with this type of legislation. She hopes the public understands and is clear on the issue.

Katherine Petrey is in support of Ordinance 108-2022 which is legislation of a proposed charter amendment. She believes for Council to do their job, they have the right to request and receive information from Directors and staff about the City and its operations and also should have the powers of investigation. Restrictions of Council's access of City information from Directors and staff, as well as, the ability to obtain information and publicly review and discuss the information deprives the City's residents of access to that information. The National Civic League publishes a model city charter which can be downloaded from the National Civic League's website. The Ninth Edition, which is the most recent version, was published in 2021. It promotes the City Manager form of government but much of it is applicable to elected Mayor. Information provided to one Council Member should be shared with all Council Members.

Len Friedson endorses and supports the Charter Amendment pending for discussion but objects to the language crafted on the Charter Amendment. The language includes "appointee". The amendment has nothing to do with "appointees". There is also no redline version to indicate what is included and what is already there. Also, in two paragraphs there is redundancy in some of the language. He believes it is important and that Council has a right to receive information to guide the City forward. The pro argument is that Council needs information to support their legislation. The opposing argument is that no codification is needed and Council already gets what it needs. He referred to the Bill of Rights as an analogy to the Charter Amendment. The inclusion of language in the Bill of Rights describing what the government could not do was just as important as what the government could do.

LEGISLATION

First Readings

a. First Readings - Consideration of Adoption Requested

ORDINANCE NO. 106-2022 (F), First Reading. An Ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Larson

Roll Call: Ayes: Mattox, Moore, Russell, Cobb, Cuda, Larson, Hart
 Nays: None

Legislation Passed

RESOLUTION NO. 107-2022 (F), *First Reading*. A Resolution establishing the OneOhio Opioid Settlement Fund and affirming that funds received by the City in accordance with the OneOhio plan shall be used in a manner consistent with the “Approved Purposes” definition in the OneOhio Memorandum of Understanding (“MOU”) and applicable law and regulations; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Vice President Cobb

Roll Call: Ayes: Mattox, Moore, Russell, Cobb, Cuda, Larson, Hart
 Nays: None

Legislation Passed

b. First Reading Only

ORDINANCE NO. 108-2022 (AS), *First Reading*. An Ordinance providing for the submission to the electors of the City of Cleveland Heights of a proposed amendment to the Charter of the City of Cleveland Heights for placement on the November 8, 2022 ballot; and declaring the necessity that this Ordinance become immediately effective as an emergency measure.

Legislation Introduced

ORDINANCE NO. 109-2022 (PD), *First Reading*. An Ordinance authorizing the Mayor to execute an agreement for the purchase of certain real property located at 13234-13238 Cedar Road; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Legislation Introduced

RESOLUTION NO. 110-2022 (F), *First Reading*. A Resolution authorizing the Mayor to enter into an agreement with Link Computer Corporation for software licenses and support for utility billing; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Legislation Introduced

c. Second Readings

ORDINANCE NO. 96-2022 (PD), Second Reading. An Ordinance creating an Appraisal Gap Program; and declaring the necessity that this legislation become immediately effective as an emergency measure.

***MOTION** to table Ordinance No. 96-2022.

Moved by Councilman Mattox, Seconded by Councilman Cuda

Roll Call: Ayes: Mattox, Cuda, Moore, Hart, Larson, Cobb, Russell

Nays: None

Motion Passed

Councilman Mattox explained that they have had so much feedback from the community they want to wait to hear from everyone in terms of how they want them to spend the money. They wanted to put this on hold until they can hear from everyone and that's why they are tabling it.

RESOLUTION NO. 97-2022 (AS), Second Reading. A Resolution amending the standing committees of Council to update the general responsibilities of each standing committee by subject matter; repealing Resolution No. 1-2022; and declaring the necessity that this legislation become immediately effective as an emergency measure.

***MOTION** to amend the language of the title and description of the Municipal Services Committee.

Moved by Councilor Moore, Seconded by Councilwoman Russell

Roll Call: Ayes: Cuda, Moore, Hart, Larson, Cobb, Russell, Mattox
Nays: None

Motion Passed

Motion to Adopt by Vice President Cobb, Seconded by President Hart

Roll Call: Ayes: Moore, Hart, Larson, Cobb, Russell, Mattox, Cuda
Nays: None

Legislation Passed

ORDINANCE NO. 98-2022 (PSH), Second Reading. An Ordinance authorizing the Mayor to enter into a Lease Agreement with T-Mobile Central LLC for the use of a portion

of City-owned property located at 3445 Mayfield Road for the construction, installation, operation, maintenance, repair, replacement, and improvement of a wireless communications facility and the grant of associated easements; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilor Larson, Second by Councilor Moore

Roll Call: Ayes: Moore, Hart, Larson, Cobb, Russell, Mattox, Cuda
 Nays: None

Legislation Passed

Committee Reports

PLANNING AND DEVELOPMENT COMMITTEE

Nothing to report at this time.

PUBLIC HEALTH AND SAFETY COMMITTEE

Councilwoman Larson stated they are holding a Public Safety and Health Committee meeting on August 15th at 5:00 p.m., to discuss the proposed lead legislation. It's close to its final form. She's invited the Cuyahoga County Board of Health staff to join them. When it's ready for a second reading, the public can voice their concerns.

ADMINISTRATIVE SERVICES COMMITTEE

Nothing to report at this time.

COMMUNITY RELATIONS AND RECREATION COMMITTEE

Councilwoman Russell spoke about the Council Committee meeting that was held to discuss the safety of basketball hoops, summer work mentoring program, the senior program updates, urban swims program. She mentioned that Director Mike Thomas and Director McCrae came but did not get a chance to finish their report because it was a full packed agenda. On August 8, 2022, there will be an additional meeting with the Mayor and that will allow Director McCrae to finish his report.

FINANCE COMMITTEE

Nothing to report at this time.

HOUSING AND BUILDING COMMITTEE

Council Member Cuda stated Sarah Wolf from Future Heights talked about a community wide meeting she had on June 28, 2022. 272 people responded to a questionnaire and ninety four percent (94%)

of the attendees were from Cleveland Heights. He said we need to improve on communication between the City and residents, they also talked about absentee landlords, vacant and abandoned properties, equity, and safety and sustainability in the neighborhoods. The next meeting is September 6, 2022. Michael Kerman from Future Heights showed some of the rehab of the vacant properties they have done. They have done 20 homes so far and four homes are in the works. This will allow the CDC to turn them into owner-occupied homes.

MUNICIPAL SERVICES COMMITTEE

Councilor Moore stated the Municipal Services and Environmental Sustainability Committee will meet on August 8, 2022 at 5:30 p.m. All are encouraged to attend.

COMMITTEE OF THE WHOLE

Council President Hart announced there will be a Special Council meeting next week for passage of some time sensitive legislation relative to the Cedar Fairmount SID. Also, there will be a discussion on the council budget in preparation of next year.

Personal communications from citizens

Danialle Benham is the lead on the Delmore community orchard. She said the deer have killed \$100 worth of native deer resistant plants. She received \$500 grant for native plants. Within 2 hours of planting, the deer had uprooted the plants, nibbled on them and left them there. New trees have been damaged. She proposed that the City should listen to the Ohio Department of Natural Resources on how to control the deer population. In addition, she said we should tag the deer and make sure they are healthy. We need to work with neighboring cities and ask citizens to report when and where they see the deer. This is a good start for us and our deer population

Barbara Sosnowski said within the past 8 years she has been tending to the beauty and safety along Noble Road by picking up trash and planting green spaces. She said her main concern is with housing and building and coding and inspection that has been happening or not happening. Her current concern is with a woman residing in one of these rental spaces who she became acquainted with through her church. The woman fears for her own safety and doesn't feel that the City is protecting her. Her neighbor lives in deplorable conditions and she doesn't feel the City cares. She found out about the rental property through Prominent. Her neighbor had gone 3 months without heat in the winter and her landlord didn't pay the water bill, so she had no water for one month. In addition, there are cracks in the foundation of her home which is resulting in an infestation of rats and mice. She wants to thank the Committee for taking up the cause and thanks Gail Larson for making communications with renters and better codes so everyone can remain healthy and safe.

Wes Schaub came to address ongoing issues with an Airbnb located at 1044 Helmsdale. He realized the City doesn't have any zoning around AirBnb's but suggested that Council may want to consider zoning. There are 8-12 guests at a time, party buses, several motorcycles, regular dumping of trash in the yard that

scatters into the neighboring yards. The owner is not taking care of it. He asked for their help with the problem.

Susan Frierson was on the Refuse and Recycling Task Force. People in the community are having issues getting enough containers. She spoke on behalf of her friend, Este who volunteers for an organization that is a medical supply lending library and a monthly program for the elderly that provides transportation and lunch. She also works and is a mother of 10 children. Este's family produces more trash and recyclables than the two allotted bins provided by the City. The City informed Este that she should see if any of her neighbors will allow her to place her trash or recyclables in other peoples' recyclable bins on the block. Susan wants to see if we can get this corrected. Her neighborhood consists of a lot of Orthodox Jews. She would like the City to come up with solution to allow people to put in orders for more containers. She said this is an area that should be given attention.

Lenora Cruz-Price is a public meeting note taker for the ARPA funds. She apologized for not making the ARPA funds meeting as she works two jobs. Relative to the businesses that attended the July 28, 2022 ARPA funds meeting with the Mayor and Councilman Mattox, it was indicated that Noble Taylor community never submitted the results requested by President Hart. The reports were submitted on December 6, 2022 and July 27, 2022. She stated this is their third time submitting the reports. She thanked the Mayor and City Council in addressing the rescuing needs of the Noble Taylor community and for taking care of the community. She thanked Councilwoman Russell for creating the legislation for \$5,000,000.

Anne Leslie Williams has lived in Cleveland Heights for 5 years. The housing rental situation deeply concerns her. She said she's lived in 12 or 13 different states and two different countries and Cleveland Heights is the worst place she has ever rented in. Four out of five of her landlords are not local. She said her rent increased sixty-three percent in one year. Landlords are acting unethically. The current landlord is holding onto her full deposit. He tried to get her out of the rental on May 2, 2022 but he was unaware he had to give her a 30-day notice. She was able to delay her exit time until the end of June. She had been looking for a place for a year. She searched for a third story attic and found a place five days before she was supposed to vacate the rental. She has some ideas, including landlord tenant laws need to be written regarding regulations for tenants and proof of damage. She suggested 60-day notices instead of 30-day notices. She said some serious legislation needs to be passed.

Johnny Fanton parents own a home on Pennfield Road and he frequently visits them. He believes the City is going downhill because they are not taking the initiative to come together and keep up the standards. There are a lot of people who are renting on their street. He has witnessed motorcycle gangs, excessive trash sitting out for entire week, a bunch of people coming and going, playing loud music and basketball all times of the night. He mentioned someone living in the garage. Playing ball at all times of the night. They now have mice in their house. He has notified the police and mentioned the wires were cut under his hood. He is asking the City for help.

Tonya Palmer lives in the 44112 area and has been in the city since 1974. She wants to know what the City can do for the community as far as mice and rodents. She owns several properties and has received several calls from tenants regarding mice. She has never had this issue. She wants to know what can be

done to beautify the curbs when a lot of the streets don't have curbs. Does the ARPA fund help with that? She is on a street where 24 new houses are being built but they don't have curbs.

Mark Washington is present to address issues relative to lack of property maintenance at 3556 Silsby Rd. The neighboring yard is only maintained once a year. He feels there is a class issue in Cleveland Heights. He lives in the lower middle class. He believes the City should make people take care of their houses. He pays too much in taxes to be subjected to this. He believes if he lived in a better section of Cleveland Heights, these issues would be taken care of.

Old Business

None at this time.

New Business

None at this time.

Council Member Comments

Councilwoman Larson stated at a gathering hosted by East Cleveland president Nathaniel Martin that the East Cleveland staff made an announcement that the Metroparks is going to invest \$22,000,000 to restore Forest Hills to its natural state. She said this news was very welcoming to the residents in attendance. She encouraged everyone to check out the Milligan playground this Wednesday, August 3, 2022 at 8:30 p.m., to view the movie Ice Age. She encourages everyone to drive down Delmore Road to look at the vacant lot that the community has built into an orchard and is sorry to hear about the damage inflicted to the plants from the deer. The Noble Farmer's Market runs from Saturday August 6, 2022 – September 24, 2022 and is located on the corner of Noble and Roanoke Road

Councilman Cuda gave praise to Councilwoman Moore for taking the lead on environmental and sustainability issues. He lamented about the fact that a few members on the Transportation Committee resigned as they felt overlooked, ignored and rejected. He wants to know what can be done to make public engagement meaningful. He spoke about the animal control issue in his January 3, 2022 address when he was sworn in. He feels we need to find a way to work regionally. The City doesn't currently have an animal control department but he hopes that maybe something can be implemented that is cost effective in a regional way.

Councilwoman Russell announced the Hillcrest Market takes place every Thursday from 4:00 p.m. -8:00 p.m., until October. It is located at the corner of Belvoir and Quarry. She is glad to hear from people about the issues going in the neighborhood and how Council can assist in helping the community. She thanked the residents of the Noble Taylor area that attended the July 28, 2022 ARPA funds meeting. She appreciated the great response from the neighborhood in what she has done to create legislation and make the community better.

Councilwoman Moore thanked everyone for coming out and speaking about community issues and what they need council to do. They are committed to trying to find solutions to make the City what they know it can be. She asked people to keep coming as they need to hear from them.

Councilman Mattox thanked everyone who attended the July 28, 2022 ARPA meeting. He said the response was awesome. The survey can be accessed at Cleveland hts.gov/ARPA. It is extremely important to complete the survey. He stated there will be volunteers knocking on doors in the community to get feedback about how we want the City to spend ARPA funds. The first ARPA meeting took place on July 28, 2022. He announced to those who live in Cleveland Heights but are connected to East Cleveland public school district, on Saturday 8/6/2022 at 2:00 p.m., the East Cleveland Library is giving out free school supplies. He stressed the importance of voting tomorrow.

Council President's Report

Council President Hart thanked everyone for coming and giving their input. She is aware there are a lot of housing problems. She encourages everyone go to the other ARPA meetings. They have a portal and paper forms. If you have any problems, you can also contact Council. She mentioned \$18,000,000 has been allocated to sewers and \$5,000,000 is earmarked for the Noble/Taylor neighborhood and businesses but has not been allocated yet. She said they are going back to the Committee of the Whole at this point to discuss legislation and go into Executive Session.

NEXT REGULAR COUNCIL MEETING: MONDAY, AUGUST 15, 2022

Respectfully submitted,

Melody Joy Hart
President of Council

Addie Balester
Clerk of Council

Proposed: 9/19/2022

ORDINANCE NO. 135-2022 (F) *First Reading*

By Mayor Seren

An Ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 and declaring the necessity that this legislation become immediately effective as an emergency measure.

BE IT ORDAINED by the Council of the City of Cleveland Heights that:

SECTION 1. Certain subparagraphs of Ordinance No. 139-2021 (F) relating to appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 be, and the same hereby are increased, decreased and/or transferred in the amounts set forth in Exhibit 1.

SECTION 2. All expenditures of the City of Cleveland Heights within the fiscal year ending December 31, 2022, shall be made within the appropriations herein provided. "Appropriation" as used herein means the total amount appropriated for the individual fund. Notwithstanding the financial detail herein presented within an individual fund, the Mayor is authorized to transfer budgeted amounts within each fund, so long as the total amount appropriated for each individual fund is not exceeded.

SECTION 3. Notice of the passage of this ordinance shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one paper of general circulation in the City of Cleveland Heights.

SECTION 4. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the ongoing and continuous need to preserve the faith and credit of the City. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of Council

ORDINANCE NO. 135-2022 (F)

ADDIE BALESTER
Clerk of Council

Passed:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

ORDINANCE NO. 135-2022 (F)

Exhibit 1

Fund	Department	Object	Reason	Requested		Revised Budget	Net Effect to Budget
				Approved Budget	Change		
101 - General	7201 - Police Admin	Personal Services	Transfer Personal Services to Academy from Police department.	9,396,454.36	(3,641.48)	9,392,812.88	Zero - Budget is being transferred.
	7202 - Police Academy	Personal Services	Transfer Personal Services to Academy from Police department.	58,443.59	3,641.48	62,085.07	Zero - Budget is being transferred.
216 - Rec Fac Imp Fund	8301 - Park Maintenance Admin	O.T.P.S.	Transfer for supplies.	217,000.00	5,000.00	222,000.00	Zero - Budget is being transferred.
		Capital	Transfer for supplies.	254,000.00	(5,000.00)	249,000.00	Zero - Budget is being transferred.
Total				9,925,897.95	0.00	9,925,897.95	

Current General Fund Unbudgeted Revenue	-249,974.86
Changes to the General Fund	0.00
Total	-249,974.86

Proposed: 9/19/2022

ORDINANCE NO. 136-2022 (F) *First Reading*

By President Hart

An Ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022; increasing Council's budget to provide funds for additional operating expenses, and declaring the necessity that this legislation become immediately effective as an emergency measure.

BE IT ORDAINED by the Council of the City of Cleveland Heights that:

SECTION 1. Certain subparagraphs of Ordinance No. 139-2021 (F) relating to appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 be, and the same hereby are increased, decreased and/or transferred in the amounts set forth in Exhibit 1; to provide funds necessary for Council to discharge its obligations due to increased operating expenses.

SECTION 2. All expenditures of the City of Cleveland Heights within the fiscal year ending December 31, 2022, shall be made within the appropriations herein provided. "Appropriation" as used herein means the total amount appropriated for the individual fund. Notwithstanding the financial detail herein presented within an individual fund, the Mayor is authorized to transfer budgeted amounts within each fund, so long as the total amount appropriated for each individual fund is not exceeded.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. Notice of the passage of this ordinance shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one paper of general circulation in the City of Cleveland Heights.

SECTION 5. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the ongoing and continuous need to preserve the faith and credit of the City. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

ORDINANCE NO. 136-2022 (F)

MELODY JOY HART
President of Council

ADDIE BALESTER
Clerk of Council

Passed:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

RESOLUTION NO. 136-2022 (F)

Exhibit 1

Fund	Department	Object	Reason	Requested			Net Effect to Budget
				Approved Budget	Change	Revised Budget	
101 - General	1101 - City Council	O.T.P.S.	Increase for legal fees, seminar expenses and office supplies.	21,153.41	20,648.42	41,801.83	Increase - Unbudgeted cash will be used.
		Capital	Increase for computer software.	0.00	6,000.00	6,000.00	Increase - Unbudgeted cash will be used.
Total				21,153.41	26,648.42	47,801.83	

Current General Fund Unbudgeted Revenue	-249,974.86
Changes to the General Fund	-26,648.42
Total	-276,623.28

Proposed: 9/19/2022

RESOLUTION NO. 137-2022 (PD), *First Reading*

By Mayor Seren

A Resolution authorizing the Mayor to enter into an amendment to a lease agreement with WXZ CPV LLC; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, by Resolution No. 103-2022, this Council authorized the Mayor to enter into a lease agreement with WXZ CPV LLC (“WXZ”) for property located at 1908, 1912-1926, and 1932-1946 South Taylor Road, Permanent Parcel Nos. 684-27-001, 684-26-011, and 684-26-012, more commonly known as the “Taylor-Tudor Buildings” (the “Premises”); and

WHEREAS, the purpose of the lease agreement was to provide site control to WXZ during the pendency of MOU negotiations between the City and WXZ so that WXZ could apply for state and/or federal funding for the redevelopment project; and

WHEREAS, it is in the best interests of the City and its residents to extend the term of the lease agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and he is hereby authorized to execute an amendment to the existing lease agreement between the City and WXZ CPV LLC (“WXZ”) for the property located at 1908, 1912-1926, and 1932-1946 South Taylor Road, Permanent Parcel Nos. 684-27-001, 684-26-011, and 684-26-012 (the “Premises”) authorized by Resolution No. 103-2022, so that the Term of the lease shall commence on the Effective Date as described by the original lease and end on the date that is the thirty-ninth (39th) anniversary of the Effective Date.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to advance the redevelopment of the Premises at the earliest possible time and to meet the timing requirements for WXZ CPV LLC to have site control sufficient to apply for transformational mixed-use development tax credits and/or other federal and/or state funding. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

RESOLUTION NO. 137-2022 (PD)

MELODY JOY HART
President of the Council

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to the Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor

Proposed: 09/19/2022

RESOLUTION NO. 138-2022 (PSH), *First Reading*

By Mayor Seren

A Resolution authorizing the Mayor to enter into an agreement with All City Management Services, Inc. for crossing guard services; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the City of Cleveland Heights and Cleveland Heights-University Heights School District have identified a need for crossing guards to ensure the safety of residents of the City and students of the School District; and

WHEREAS, the Chief of Police has recommended that the services offered by All City Management Services, Inc. best meet the City's needs; and

WHEREAS, such services are personal services for which no bidding is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and he is hereby, authorized to enter into any and all agreements, and to sign any related documents, necessary for crossing guard services through All City Management Services, Inc. The agreement for said services shall not exceed One Hundred Thirty-Five Thousand Eight Hundred Nineteen Dollars (\$135,819.00), with one-half of the costs, in the amount of Sixty Seven Thousand Nine Hundred Nine Dollars and Fifty Cents (\$67,909.50), to be reimbursed to the City by the Cleveland Heights-University Heights School District. The Agreement with All City Management Services shall be substantially similar to those contained in the Agreement attached hereto as Exhibit A. The Agreement and any related documents hereunder shall be approved as to form by and subject to the final approval of the Director of Law

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to provide crossing guard services at the earliest time possible to protect the safety and welfare of residents and school children. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

RESOLUTION NO. 138-2022 (PSH)

MELODY JOY HART
President of the Council

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor



AGREEMENT FOR CROSSING GUARD SERVICES

This AGREEMENT FOR CROSSING GUARD SERVICES (the "Agreement") is dated August __, 2022 and is between the CITY OF CLEVELAND HEIGHTS (hereinafter called the "City"), and ALL CITY MANAGEMENT SERVICES, INC., a California corporation (hereinafter called the "Contractor").

WITNESSETH

The parties hereto have mutually covenanted and agreed as follows:

1. This Agreement is for a period which commences on July 1, 2022 and ends on June 30, 2023 and for such term thereafter as the parties may agree upon by written amendment to this contract. Service shall begin on a best availability basis until such a time as Contractor has hired, trained and deployed Crossing Guards to all sites requested by the City. City agrees to provide site locations for Contractor to then assign and deploy Crossing Guards. Contractor shall assume liability for only those sites agreed to by both Contractor and the City by written amendment stating effective date of assignment.
2. The Contractor will provide personnel equipped and trained in appropriate procedures for crossing pedestrians in marked crosswalks. Such personnel shall be herein referred to as a "Crossing Guard". Contractor will perform criminal background checks confirm employment eligibility through and E-Verify on all prospective personnel. The Contractor is an independent contractor and the Crossing Guards to be furnished by it shall at all times be its employees and not those of the City.
3. The City's representative in dealing with the Contractor shall be designated by the City of Cleveland Heights.
4. The City, in consultation with Cleveland Heights-University Heights School District, shall determine the locations where Crossing Guards shall be furnished by the Contractor. The Contractor shall provide at each designated location personnel properly trained as herein specified for the performance of duties as a Crossing Guard. The Contractor shall provide supervisory personnel to see that Crossing Guard activities are taking place at the required places and times, and in accordance with the terms of this Agreement.
5. The Contractor shall maintain adequate reserve personnel to be able to furnish alternate Crossing Guards in the event that any person fails to report for work at the assigned time and location and agrees to provide immediate replacement.
6. In the performance of its duties the Contractor and all employees of the Contractor shall conduct themselves in accordance with the conditions of this Agreement and all applicable laws of the state in which the Services are to be performed.
7. Persons provided by the Contractor as Crossing Guards shall be trained in all applicable laws of the state in which the Services are to be performed pertaining to general pedestrian safety in school

crossing areas.

8. Crossing Guard Services (the “Services”) shall be provided by the Contractor at the designated locations on all days in which school is in session in the area under City’s jurisdiction. The Contractor also agrees to maintain communication with the designated schools to maintain proper scheduling.

This Agreement shall be subject to suspension upon seven (7) day notice to Contractor at any time by City. In the event of suspension of this Agreement, the Contractor shall not perform any Services under this Agreement and the City shall not incur or owe any fees or costs under this Agreement during the period of suspension. In the event that the City desires to reactivate the Agreement, the City shall notify Contractor in writing and Contractor shall resume performing Services under this Agreement within 24 hours of receipt of notice provided by City. If the Agreement is suspended at any time during the term of the Agreement, the term of the Agreement shall not be extended for the period that the Agreement was suspended.

9. The Contractor shall provide all Crossing Guards with apparel by which they are readily visible and easily recognized as Crossing Guards. Such apparel shall be uniform for all persons performing the duties of Crossing Guards and shall be worn at all times while performing said duties. This apparel must be appropriate for weather conditions. The Contractor shall also provide all Crossing Guards with hand held Stop signs and any other safety equipment which may be necessary.
10. The Contractor shall at all times provide workers' compensation insurance covering its employees and shall provide and maintain liability insurance for Crossing Guard activities. The Contractor will provide to the City a Certificate of Insurance naming the City and its officials, officers and employees as additional insureds. Such insurance shall include commercial general liability with a combined single limit of not less than \$2,000,000.00 per occurrence and in aggregate for property damage and bodily injury. Such insurance shall be primary with respect to any insurance maintained by the City and shall not call on the City's insurance contributions. Such insurance shall be endorsed for contractual liability and personal injury and shall include the City, its officers, agents and interest of the City. Such insurance shall not be canceled, reduced in coverage or limits or non-renewed except after thirty (30) days written notice has been given to the City.
11. Contractor agrees to defend, indemnify and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions, claims for damages to persons or property, penalties, obligations or liabilities (each a “Claim” and collectively, the “Claims”) that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the sole negligent acts or omissions, or willful misconduct, of Contractor, its agents, employees, subcontractors, representatives or invitees.
 - a) Contractor will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities and will pay all costs and expenses including attorney's fees incurred in connection herewith.
 - b) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the sole negligence of Contractor hereunder, Contractor agrees to pay City, its officers, agents, or employees, any and all costs and expenses incurred by the City, its

officers agents or employees in such action or proceeding, including, but not limited to, reasonable attorney's fees.

- c) In the event that a court determines that liability for any Claim was caused or contributed to by the negligent act or omission or the willful misconduct of City, liability will be apportioned between Contractor and City based upon the parties' respective degrees of culpability, as determined by the court, and Contractor's duty to indemnify City will be limited accordingly.
- d) Notwithstanding anything to the contrary contained herein, Contractor's indemnification obligation to City for Claims under this Agreement will be limited to the maximum combined aggregate of Contractor's general liability and umbrella insurance policies in the amount of \$5,000,000 (Five Million Dollars).

12. Either party shall have the right to terminate this Agreement by giving sixty (60) days written notice to the other party.

13. The Contractor shall not have the right to assign this Agreement to any other person or entity except with the prior written consent of the City.

14. The City agrees to pay the Contractor for the Services rendered pursuant to this Agreement the sum of Twenty-seven Dollars and Sixty-nine Cents (**\$27.69**) per hour, per Crossing Guard during the term. Based on a minimum of eleven (11) sites and upon a projected (4,905) hours of service the cost shall not exceed One Hundred Thirty-five Thousand, Eight Hundred Nineteen Dollars (\$135,819.00) per year, unless Contractor fails to perform service.

15. Payment is due within thirty (30) days of receipt of Contractor's properly prepared invoice.

16. Contractor may request a price increase during the term as a result of any legally-mandated increases in wages or benefits imposed in the state or municipality in which the Services are to be performed and to which Contractor's employees would be subject. Contractor shall provide City with 60 days-notice of its request to increase pricing. City agrees to review and respond to said notice within 30 days of receipt.

17. The City shall have an option to renew this Agreement. In the event this Agreement is extended beyond the end of the term set forth above, the compensation and terms for the Services shall be established by mutual consent of both parties.

18. This Agreement constitutes the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof and supersedes all prior written or oral statements among the parties, including any prior statements, warranties, or representations. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, administrators, executors, successors, and assigns. Each party hereto agrees that this Agreement will be governed by the law of the state in which the Services are to be performed, without regard to its conflicts of law provisions. Any amendments, modifications, or alterations to this Agreement must be in writing and signed by all parties. There will be no presumption against any party on the ground that such party was responsible for preparing this Agreement or any part of it. Each provision of this Agreement is severable from the other provisions. If any provision of this Agreement is declared invalid or

contrary to existing law, the inoperability of that provision will have no effect on the remaining provisions of the Agreement which will continue in full force and effect.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year written below.

CITY

City of Cleveland Heights

By _____
Signature

Print Name and Title

Date_____

CONTRACTOR

All City Management Services, Inc.

By _____
D. Farwell, Corporate Secretary

Date_____

Proposed: 09/19/2022

RESOLUTION NO. 139-2022 (MSES), *First Reading*

By Mayor Seren

A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to provide Bridge Inspection Services within Cleveland Heights and authorizing the Mayor to enter into any contracts with ODOT needed to complete said project; and declaring that this legislation become immediately effective as an emergency measure.

WHEREAS, the State of Ohio, Department of Transportation (hereafter “ODOT”) offers a “Bridge Inspection Program” to assist municipalities to achieve full compliance with the Federal Highway Administration’s bridge metrics; and

WHEREAS, the Bridge Inspection Program shall include, but is not limited to, routine inspections, element level inspections, critical-finding reports, fracture critical member inspections, load rating calculations and reports, weight limits posting sign recommendations, scour assessments, scour plan of actions, development of fracture critical plans, and underwater dive inspection reports if needed.

WHEREAS, the Mayor, in consultation with the Director of Public works, has recommended that the City opt-in to ODOT’s Bridge Inspection Program;

WHEREAS, this Council has determined that it is in the best interests of the City and its residents to participate in said program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor hereby is authorized to opt-in to the program offered by the State of Ohio, Department of Transportation (hereafter “ODOT”) called the “Bridge Inspection Program” which aims to assist municipalities to achieve full compliance with the Federal Highway Administration’s bridge metrics (the “Project”). The Project shall include, but is not limited to, routine inspections, element level inspections, critical-findings reports, fracture critical member inspections, load rating calculations and reports, weight limits posting sign recommendations, scour assessments, scour plan of actions, development of fracture critical plans, and underwater dive inspection reports, if needed. ODOT’s Director of Transportation is hereby given consent to complete the Project in the City of Cleveland Heights.

SECTION 2. The State of Ohio shall assume and bear one hundred percent (100%) of all costs for the Project requested by Cleveland Heights and agreed to by the State. Eligible Bridge Inspection Services are described in the Consultant’s Scope of Services Task Order Contract which is on file with the Clerk of Council and is available for inspection. Any costs outside the scope of

RESOLUTION NO. 139-2022 (MSES)

said Task Order would be entirely borne by the City, but no such costs are anticipated.

SECTION 3. The Mayor is hereby authorized to enter into any and all contracts with ODOT's Director of Transportation as necessary to complete the Project. All right-of-ways required for the Project shall be made available by and in accordance with current state and federal regulations. Any and all legal documents shall be approved as to form by and subject to the final approval of the Director of Law.

SECTION 4. notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to expedite the highway project and to promote highway safety. Wherefore, provided it receives the affirmative vote of five or more members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of Council

ADDIE BALESTER
Clerk of Council

PASSED: _____

Presented to the Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor



To: William R. Hanna-Director of Law
From: Collette Clinkscale-Director of Public Works
Date: September 9, 2022
Re: ODOT 2023 Municipal Bridge Inspection Services

The proposed legislation authorizes the Mayor to enter into an agreement with the Ohio Department of Transportation (ODOT, the Department) for the 2023 Municipal Bridge Inspection Program.

There is no cost to the city for this program. ODOT previously performed a three-year inspection program, and per the September 6th email from ODOT they hope to perform another three-year contract next year, but as of 2022 it will be a one-year agreement.

The Department is requesting that all resolutions be passed immediately and that the agreements be returned as soon as possible.

If you have any questions, please do not hesitate to contact me.

Thanks

Proposed: 09/19/2022

RESOLUTION NO. 140-2022 (CRR), *First Reading*

By Mayor Seren

A Resolution authorizing the Mayor to file an application and enter into an agreement with the Ohio Department of Natural Resources for the purpose of acquiring funds through the Division of Forestry's *Urban Forestry Assistance Program*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the quality of urban life is enhanced by the proper management of the urban forest resource; and

WHEREAS, the City of Cleveland Heights recognizes the importance of providing tree and shrub related benefits to its citizens; and

WHEREAS, funding for the purchase, installation and care of trees and other urban vegetation is available through the Ohio Department of Natural Resources, Division of Forestry.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. That the Mayor is hereby authorized to apply for and, if awarded, enter into an agreement with the Ohio Department of Natural Resources ("ODNR") to administer a grant to implement the Department's Urban Forestry Assistance Program.

SECTION 2. That the City of Cleveland Heights hereby requests the Department of Natural Resources, Division of Forestry, to consider and fund its application project.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. Notice of passage of this Resolution shall hereby be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation of the City of Cleveland Heights.

SECTION 5. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet State grant deadlines. Wherefore, provided it receives the affirmative vote of five or more members elected

RESOLUTION NO. 140-2022 (CRR)

or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of Council

ADDIE BALESTER
Clerk of Council

PASSED: _____

Presented to the Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor

Proposed: 09/06/2022

RESOLUTION NO. 130-2022 (F) *Second Reading*

By Mayor Seren

A Resolution accepting the amounts and rates as determined by the Budget Commission; authorizing the necessary tax levies and certifying them to the County Fiscal Officer; and declaring an emergency.

WHEREAS, this Council, in accordance with the provisions of law, has previously adopted a Tax Budget for the fiscal year commencing January 1, 2023; and

WHEREAS, the Budget Commission of Cuyahoga County, Ohio has certified its action thereon to this Council, together with an estimate by the County Fiscal Officer of the rate of each tax necessary to be levied by this Council, and what part thereof is without and what part within the ten mill tax limitation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The amounts and rates, as determined by the Budget Commission on its certification, be, and the same are hereby accepted.

SECTION 2. There is hereby levied on the tax duplicate of said City the rate of each tax necessary to be levied within and without the ten mill limitation as follows:

	Estimate of amount to be derived from levies		County Fiscal Officer's estimate rate of tax to be levied	
	Inside	Outside	Inside	Outside
	10 mill limitation		10 mill limitation	
General Fund	\$1,848,000	\$6,152,000	2.22	7.40
Bond Retirement	\$1,250,000	0	1.50	0.00
Recreational Improvement Fund		\$585,000		0.70
Police Pension Fund		\$250,000		0.30
Fire Pension Fund		\$250,000		0.30
	\$3,098,000	\$7,237,000	3.72	8.70

RESOLUTION NO. 130-2022 (F)

SECTION 3. It is hereby resolved that the Clerk of Council be, and he is hereby, directed to certify a copy of this Resolution to the Fiscal Officer of Cuyahoga County.

SECTION 4. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being to permit acceptance of such rates immediately to comply with dates set by the County Budget Commission. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of Council

ADDIE BALESTER
Clerk of Council

Passed:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

Memo

To: Kahlil Seren, Mayor
From: Chlondra Hunter, Sr. Financial Analyst
Date: 8/29/22
Re: Certification of Tax Rates and Levy to the County Fiscal Year 2023

Every year City Council approves tax rates to be levied on properties within the City. This approval was given by Council on 6/21/22 via Resolution 72-2022. The tax budget and Council approval was subsequently submitted to the County Budget Commission. The Budget Commission reviewed our submission and approved the rates submitted.

City Council is now required to accept the tax rates and authorize the levy of those rates on properties within the City. This resolution also certifies the rates to the County Fiscal Officer.

The certification gives the County Fiscal Officer the authority to calculate the amount owed on each property within the City for the tax rates listed in the resolution. The County Fiscal Officer can then bill each property owner the amount calculated.

Proposed: 09/06/2022

RESOLUTION NO. 131-2022 (F) *Second Reading*

By Mayor Seren

A Resolution requesting the County Fiscal Officer to advance taxes from the proceeds of the 2022 tax year collection pursuant to Section 321.34 of the Ohio Revised Code; and declaring an emergency.

BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The County Fiscal Officer be, and is hereby, authorized and directed to pay to the Director of Finance of the City of Cleveland Heights, Ohio, all monies now in the hands, and that may hereafter come into the hands, of the County Fiscal Officer which are payable to the City of Cleveland Heights from the proceeds of the 2022 tax year collection including, without limitation, revenues from personal property taxes, real property taxes, and special assessments.

SECTION 2. The Director of Finance is hereby authorized and directed to furnish a copy of this Resolution to the County Fiscal Officer.

SECTION 3. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being to enable the City to meet its fiscal obligations and to preserve the credit of the City. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of Council

ADDIE BALESTER
Clerk of Council

RESOLUTION NO. 131-2022 (F)

Passed:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

Memo

To: Kahlil Seren
From: Chlondra Hunter, Sr. Financial Analyst
Date: 8/29/2022
Re: Tax Advance Request Fiscal Year 2023

Every year City Council has to approve receiving property tax advances from the City. This formal request is required by Ohio Revised Code 321.34(A)(1). That code section indicates that if Council does not make this formal request by resolution the City could only receive property tax monies in March and August. Currently, we receive property tax monies in January, February, March, July and August as a result of approving receiving advances. Receiving the advances allows for better cash flow planning and the City can earn interest on the money if it's not immediately needed.

Proposed: 09/06/2022

ORDINANCE NO. 132-2022 (MS)

By Mayor Seren

An Ordinance authorizing the Mayor to enter into an agreement for recycling processing services between the City of Cleveland Heights and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, pursuant to Ordinance No. 49-2015 and Section 171.13 of the City's Codified Ordinances, the City of Cleveland Heights participates in the Consortium organized by the Cuyahoga County Solid Waste District and comprised of the communities of Beachwood, Cleveland Heights, Highland Hills, Independence, Lyndhurst, Moreland Hills, Pepper Pike, Shaker Heights, Solon, University Heights and Woodmere, to request bids for the processing of recyclables collected within the participating communities; and

WHEREAS, on July 7, 2022 the Solid Waste District solicited bids on behalf of the cities of Cleveland Heights and Shaker Heights for recycling processing services; and

WHEREAS, on August 4, 2022 bids were received from four companies and publicly opened; and

WHEREAS, following bid review the Public Works Department determined that Waste Management of Ohio, Inc. ("Waste Management") submitted the lowest and best bid and that therefore it is in the best interests of the City of Cleveland Heights to award a contract to Waste Management for recycling processing services for the term commencing October 1, 2022.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby approves the recommendation of the Department of Public Works to select the bid submitted as the lowest and best and to award the contract to Waste Management to provide recycling processing services for the City of Cleveland Heights.

SECTION 2. This Council hereby authorizes the Mayor to deliver to Waste Management a copy of this Resolution, which will serve as a Notice of Award, and to execute, on behalf of the City of Cleveland Heights, an *Agreement for Recycling Processing Services* with terms approved by the Director of Law.

SECTION 3. It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public as required by the Codified Ordinances of the City.

ORDINANCE NO. 132-2022 (MS)

SECTION 4. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the inhabitants of the City of Cleveland Heights, such necessity existing for the further reason that it is necessary to authorize the execution of the agreement with Waste Management as soon as possible so that the City will realize savings on recycling processing services. Wherefore, provided it receives the affirmative vote of five (5) or more members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY HART
President of the Council

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to the Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor

Proposed: 6/21/2021

ORDINANCE NO. 78-2021 (PSH), *Third
Reading, As Amended*

By Council Member Seren

An Ordinance enacting and adopting Chapter 522, "Lead Hazards," of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights; repealing Chapter 1347, "Certificate of Occupancy," of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 1347, "Certificate of Occupancy"; and amending Section 1345.99, "Penalty," of Chapter 1345, "Enforcement and Penalty," of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights.

WHEREAS, this Council desires to provide for the regulation of lead hazards, to require rental units to be certified lead-safe as condition of obtaining a rental occupancy permit, and to authorize the Cleveland Heights Building Commissioner to administer and enforce this requirement; and

WHEREAS, lead poisoning is a serious threat to the health of children which can cause learning disabilities, language delays, hearing problems, and behavioral problems; and

WHEREAS, children living in residential rental units built before 1978 are disproportionately at risk for unsafe levels of lead exposure from lead-based-paint hazards; and

WHEREAS, this Council has determined that requiring all residential rental units constructed before January 1, 1978 to have lead-safe certification will help to decrease the occurrence of lead poisoning in the children of Cleveland Heights.

BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, State of Ohio, that:

SECTION 1. Chapter 522, "Lead Hazards," of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is enacted and adopted to read in total as set forth in Exhibit A hereto.

SECTION 2. An amended Chapter 1347, "Certificate of Occupancy," of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights, is hereby adopted to read in total as set forth in Exhibit B hereto.

SECTION 3. Current Chapter 1347 of the Codified Ordinance of the City of Cleveland Heights, as it existed prior to the effective date of the ordinance, is hereby repealed.

SECTION 4. Section 1345.99, "Penalty," of Chapter 1345, "Enforcement and Penalty," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

1345.99 PENALTY.

(a) A violation of Sections 1351.14, 1347.01, or 1347.04(a) and (b) or 1347.05(a) or (b) is hereby classified as a minor misdemeanor. Every day such violation occurs or continues shall constitute a separate offense.

SECTION 5. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 6. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

MELODY JOY HART
President of Council

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to the Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

EXHIBIT A

CHAPTER 522

Lead Hazards

522.01 Definitions

522.02 Lead Hazards Are A Nuisance

522.03 Prohibitions

522.04 Lead Abatement and Lead Hazard Control

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522.01 Definitions

As used in this chapter:

(a) "Clearance examination" means an examination, performed by a clearance technician, lead inspector, or lead risk assessor, to determine whether lead hazards in a residential unit, child day-care facility, or school have been sufficiently controlled. A clearance examination includes a visual assessment, collection and analysis of environmental samples.

(b) "Clearance technician" means a person, other than a licensed lead inspector or lead risk assessor, who is licensed under RC Chapter 3742 to perform a clearance examination.

(c) "Commissioner" means the Cleveland Heights Building Commissioner unless otherwise specified.

(d) "Division" means the Division of Building and Inspectional Services in the Department of Public Safety unless otherwise specified.

(e) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing lead hazard maintenance activities, and the establishment and operation of management and resident education programs.

(f) "Landlord" has the same meaning as in division (e) of Section 1347.01.

(g) "Lead Abatement" means a measure or a set of measures, designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following:

- (1) Removal of lead-based paint and lead-contaminated dust;
- (2) Permanent enclosure or encapsulation of lead-based paint;
- (3) Replacement of surfaces or fixtures painted with lead-based paint;
- (4) Removal or permanent covering of lead-contaminated soil;
- (5) Preparation, cleanup, and disposal activities associated with lead abatement.

"Lead abatement" does not include any of the following:

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- (1) Residential rental unit lead-safe maintenance practices performed pursuant to RC 3742.41 and 3742.42;
- (2) Implementation of interim controls;
- (3) Activities performed by a property owner on a residential unit to which both of the following apply:
 - A. It is a freestanding single-family home used as the property owner's private residence;
 - B. No child under six (6) years of age who has lead poisoning resides in the unit.
- (4) Renovation, remodeling, landscaping or other activities, when the activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Abatement does not include operations and maintenance activities or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards. This definition shall not be interpreted to exempt any person from any requirement under State or federal law regarding lead abatement, including lead hazard control orders or requirements for full abatement of lead-based paint in certain federally-funded projects.

(h) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health as set forth in Rule 3701-32-19 of the Ohio Administrative Code (OAC) as it may be hereafter amended.

(i) "Lead hazard" means material that is likely to cause lead exposure and endanger an individual's health as set forth in OAC Rule 3701-32-19. Lead hazard includes lead-based paint, lead-contaminated dust, lead-contaminated soil and lead-contaminated water pipes.

(j) "Lead hazard control" means measures taken to reduce or eliminate a lead hazard, which includes, but is not limited to, lead abatement, interim controls, or both, as appropriate.

(k) "Lead Poisoning" means a confirmed venous blood lead test level of lead in human blood of five micrograms per deciliter or greater.

(l) "Permanent" means an expected design life of at least twenty (20) years.

(m) "Rental agreement" has the same meaning described in division (m) of Section 1347.01 of the Codified Ordinances.

(n) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age six (6) years or under resides or is expected to reside in such housing) or any zero (0) bedroom dwelling.

(o) "Tenant" has the meaning described in division (o) of Section 1347.01 of the Codified Ordinances.

(p) "Zero (0) bedroom dwelling" means any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings.

522.02 Lead Hazards Are A Nuisance

- (a) This Council finds that lead hazards constitute a nuisance.

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(b) The Commissioner may determine that a nuisance is required to be immediately controlled under this section if, in the Commissioner's opinion, failure to immediately control the hazard may cause a serious risk to the health of the occupants of the property. In such a case, the Commissioner may require the owner or manager of the property to immediately control the nuisance or the Commissioner may, by his or her authorized representative, immediately control such nuisance.

522.03 Prohibitions

(a) No person shall do any of the following:

- (1) Violate any provision of RC Chapter 3742, as may be applicable, or the rules adopted pursuant to it;
- (2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child day-care facility, or school, unless the Ohio director of health has determined by rule under RC 3742.45 that no suitable substitute exists;
- (3) Interfere with an investigation conducted in accordance with this chapter or RC 3742.35 or by the Commissioner or the Commissioner's designee, any lead inspector or risk assessor.
- (b) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child day-care facility, or school unless the individual who will perform the lead abatement holds a valid license issued under RC 3742.05.
- (c) No person shall do any of the following when a residential unit, child day-care facility, or school is involved:
 - (1) Perform a lead inspection without a valid lead inspector license issued under RC 3742.05;
 - (2) Perform a lead risk assessment without a valid lead risk assessor license issued under RC 3742.05, or provide professional advice regarding lead abatement without a valid lead risk assessor, lead abatement contractor, or lead abatement project designer license issued under RC 3742.05;
 - (3) Act as a lead abatement contractor without a valid lead abatement contractor's license issued under RC 3742.05;
 - (4) Act as a lead abatement project designer without a valid lead abatement project designer license issued under RC 3742.05;
 - (5) Perform lead abatement without a valid lead abatement worker license issued under RC 3742.05;
 - (6) Perform a clearance examination without a valid clearance technician license issued under RC 3742.05, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section;
 - (7) Perform lead training for the licensing purposes of RC Chapter 3742 without a valid approval from the director of health under RC 3742.08.
 - (8) Perform interim controls without complying with 24 C.F.R. Part 35.
 - (9) Perform lead-safe maintenance practices without complying with RC 3742.41 and 3742.42.

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(d) No person shall manufacture, sell or hold for sale toys and other articles intended for use by children as defined in 16 C.F.R. 1303.2, or furniture as defined in 16 C.F.R. 1303.2, that bears paint containing lead in excess of 0.009 percent by weight of the total nonvolatile content of the paint or the weight of the dried paint film.

(e) No person shall sell or lease target housing in the City unless the owner, lessor, or agent of the target housing meets all applicable requirements of Section 522.06 regarding disclosures of lead hazards.

(f) No person renovating target housing in the City shall fail to comply with Section 522.07.

(g) No owner or manager of a retail or wholesale outlet of paint and paint-removal products shall violate division (b) of Section 522.07 by failing to provide an EPA-approved lead hazard information pamphlet.

(h) All power-assisted methods of lead-based paint removal are hereby prohibited, unless the standards and methods set forth in OAC Chapters 3701-30 or 3701-32, as applicable, are followed. Open flame burning is prohibited under any circumstances.

522.04 Lead Abatement and Lead Hazard Control

(a) The Commissioner is authorized to issue a stop work or cease and desist order to any person performing work in violation of RC Chapter 3742 or this chapter.

(b) No person shall fail to immediately stop lead abatement or control activities when ordered to do so under division (a) of this section. No person shall resume lead abatement or control activities except in conformance with all applicable standards and methods prescribed in RC Chapter 3742.

522.05 Disclosures in Sale or Lease of Target Housing Regarding Lead Hazards

(a) Disclosure in Purchase or Lease of Target Housing.

(1) A seller or lessor of target housing must disclose information concerning lead upon the transfer of any target housing pursuant to the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d, and shall adhere to all rules and regulations promulgated under the Act, as may be amended from time to time. Before a purchaser or tenant is obligated under a contract to purchase target housing or a rental agreement to lease target housing, the seller or lessor shall perform the activities and provide the disclosures described in this section:

A. Provide the purchaser or tenant with an EPA-approved lead hazard information pamphlet;

B. Disclose to the purchaser in writing in the sales contract, or to the tenant, in writing in the rental agreement: (i) the presence of any known lead-based paint, or any known lead-based paint hazards, in the housing; (ii) any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces; and (iii) whether the property or unit is under a lead hazard control order;

C. Disclose to the tenant a copy of the most recent clearance examination or lead risk assessment and, if applicable, the lead-safe certification;

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D. Provide to the purchaser or tenant any records or reports (including notices or letters of violation) available pertaining to lead-based paint or lead-based paint hazards in the target housing, including regarding common areas, and regarding other residential dwellings in multi-family target housing, provided that the information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing;

E. Permit the purchaser a ten (10) day period (unless the parties mutually agree in writing to a different period of time or to waive this requirement) to conduct a lead risk assessment or lead inspection for the presence of lead-based paint and/or lead-based paint hazards;

F. Include in the sale or rental agreement the Lead Warning Statement prescribed in 40 C.F.R. 745.113;

G. Include in the sale or rental agreement acknowledgments that the pamphlet, disclosures, ten (10) day period (if required) and warning required were provided.

(1) Discovery of Lead Hazards or Presumed Lead Hazards. If the owner of a residential unit learns of the presence of lead-based paint and/or lead-based paint hazards the owner shall notify each tenant of the presence of lead-based paint and/or lead-based paint hazards within ten (10) days of discovering its presence. In addition, the owner shall notify prospective tenants of presumed lead-based paint and shall provide each tenant with a Lead Warning Statement and the lead hazard information pamphlet, as prescribed by 42 U.S.C. 4852d.

(2) Compliance Assurance. Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the agent, on behalf of the seller or lessor, shall ensure compliance with the requirements of this section and 40 C.F.R. 745 Subpart F. An agent means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. The term "agent" does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser.

(b) Penalties for Violations.

(1) Criminal Penalty. Any person who knowingly fails to comply with any provision of this section shall be subject to the penalties provided in Section 522.99.

(2) The Commissioner is authorized to take lawful action as may be necessary to enforce this section or to enjoin any violation of it.

(3) Civil Liability. Any person who violates any provision of this section will be jointly and severally liable to the purchaser or lessee in an amount equal to one (1) month's rent or one (1) month's mortgage payment.

(4) In any action brought for damages under this section, the appropriate court may award court costs to the party commencing the action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) A non-profit environmental health or housing rights organization is authorized to bring an action under division (b)(3) of this section on behalf of an aggrieved individual or individual(s) for violations of this section. Such organization may recover its costs under the remedies provided in divisions (b)(3) and (b)(4) of this section if the organization demonstrates that it has exerted organizational resources, including staff time, to investigate the alleged non-compliance with this section.

(c) Validity of Contracts and Liens. Nothing in this section may affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in

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residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor may anything in this section create a defect in title.

522.06 Residential Property Renovation; Paint Outlet Information Rule

(a) All renovations, repair and painting performed for compensation in target housing shall be performed in compliance with 40 C.F.R. Part 745, Subpart E, Residential Property Renovation, as may be amended from time to time. Any person performing renovations, repair and painting shall provide to occupants of the residential property a renovation-specific pamphlet as required under 40 C.F.R. 745.81.

(b) All retail and wholesale outlets of paint and paint removal products shall distribute an EPA- approved lead hazard information pamphlet to each purchaser of paint and paint removal products.

522.07 Notice Requirements

(a) For any lead abatement, interim controls, lead-safe maintenance practices or lead-safe renovation work in a residential unit, child day-care facility or school, the owner shall provide seven (7) days advance written notice to all occupants of residential structures, or all parents, students, teachers, and staff of child day-care facilities or schools from which lead-based paint is to be removed, and to all occupants of residential structures which are within thirty (30) feet of the residential structure, child day-care facility or school from which the lead-based paint is to be removed. The notice shall be as prescribed by the Commissioner and shall include, at a minimum, the address at which the lead-based paint will be removed, the date of commencement of the lead-based paint removal, the anticipated length of time to complete the removal, and the method by which the lead-based paint will be removed. The notice shall include a copy of an EPA-approved lead hazard information pamphlet.

(b) The notice required under this section does not relieve any person from compliance with any other notice requirements under state or federal law, including when notice is required by a hazard control order.

522.08 Enforcement

(a) Whenever the Commissioner or a designee determines upon information, or by observation or inspection, that any provision of this chapter is being or has been violated, the official may issue a notice of violation to the owner, manager, or person in charge to correct the violation. If the violation constitutes a nuisance that, in the determination of the Commissioner or designee, may endanger the health or safety of any person, the notice of violation shall order the immediate abatement of the nuisance.

(b) In addition to any penalty for a violation of this chapter, the Commissioner or a designee may use any and all remedies in this Code, including Chapter 553, to prevent, terminate, or abate the nuisance, or to otherwise take action to control the nuisance, the costs and expense of which may be recovered as provided in RC 715.261, including certifying the costs and expense to the County Auditor, to be placed on the property as a lien to be collected as other taxes and returned to the City.

(c) In addition to any penalty for a violation of this chapter, the Commissioner or a designee may control such nuisance. The costs and expense of controlling the nuisance by

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the Commissioner or designee under this chapter may be recovered as provided in RC 715.261, including certifying the costs and expense to the County Auditor, to be placed on the property as a lien to be collected as other taxes and returned to the City.

(d) The authority described in division (c) to control such nuisance includes the authority to order the owner or manager to relocate the occupants of a residential unit, day-care facility, or school, until the property passes a clearance examination, if the Commissioner determines that the health of the occupants may be at risk during the lead hazard control work. The Commissioner may relocate the occupants until the residential unit, child day-care facility, or school passes a clearance examination. The costs and expense of the relocation may be recovered by certifying those costs to the County Auditor, to be placed on the property as a lien to be collected as other taxes and returned to the City.

(e) In the event of an actual or threatened violation of this chapter, or in an emergency situation, the Director of Law, in addition to other remedies provided by law, may institute a proper suit in equity or at law to prevent, terminate or otherwise remedy the violation.

(f) In addition to all other penalties and remedies provided by law, any person damaged by a nuisance caused by a violation of this chapter may institute a proper action in equity or at law to prevent, terminate or otherwise remedy the violation.

(g) The City has enacted and enforces the provisions of this chapter to promote and preserve the public peace, health, safety and welfare. The City does not assume, nor does it impose on its officers and employees, an obligation the breach of which causes it to be liable in money damages to any person who claims that such breach proximately caused injury. In addition, nothing in this chapter may be interpreted to limit the City's statutory immunity under RC Chapter 2744.

522.99 Penalties

(a) Whoever violates division (f) of Section 522.03 is guilty of a minor misdemeanor.

(b) Whoever violates any provision of Chapter 522 for which no other penalty is provided or rule or regulation or order under this chapter is guilty of a misdemeanor of the first degree. Except for a violation of division (f) of Section 522.03, each day during which noncompliance or a violation continues shall constitute a separate offense.

(c) As provided by RC 2901.23 and 2929.31, organizations convicted of an offense are guilty of a misdemeanor of the first degree.

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CHAPTER 1347

Certificate of Occupancy and Lead-Safe Certification

1347.01 Definitions.

1347.02 Certificate of occupancy required.

1347.03 Certificate issuance, contents, term and revocation.

1347.0 Failure to apply for certificate; renewals.

1347.05 Posting and availability of certificate.

1347.06 Fees for original certificate.

1347.07 Changes; new certificate of occupancy; fees.

1347.08 Lead-safe certification required for residential rental units built before January 1, 1978

1347.09 INTERNAL REVIEW

1347.10 IMPACT OF LEAD-SAFE CERTIFICATION REQUIREMENT

1347.11 LEAD-SAFE ADVISORY BOARD

1347.12 RECORDS KEPT BY DEPARTMENT

1347.13 INSPECTIONS, RIGHT OF ENTRY

CROSS REFERENCES

Certificate of compliance required - see BLDG. 1311.02

1347.01 DEFINITIONS

For purposes of this chapter:

(a) "Clearance examination" means an examination, performed by a clearance technician, lead inspector, or lead risk assessor, to determine whether lead hazards in a residential unit have been sufficiently controlled. A clearance examination includes a visual assessment, collection and analysis of environmental samples.

(b) "Clearance technician" means a person, other than a licensed lead inspector or lead risk assessor, who is licensed under RC Chapter 3742 to perform a clearance examination.

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(c) "Lead-safe certification" means that the owner of a residential rental unit built before January 1, 1978 has provided to the Building Commissioner a clearance examination report or lead risk assessment that indicates that lead hazards are not identified in the unit. A lead-safe certification is valid for two (2) years from the date of the certification.

(d) "Building Commissioner" means the Building Commissioner or designee.

(e) "Landlord" means the owner, lessor, or sublessor of residential premises, his or her agent, or any person authorized by him or her to manage the premises or to receive rent from a tenant under a rental agreement.

(f) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health as set forth in Rule 3701-32-19 of the Ohio Administrative Code (OAC) as it may be hereafter amended.

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lead inspection, provides professional advice regarding a lead inspection, or prepares a report explaining the results of a lead inspection.

(i) "Lead risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead hazards in a residential unit including information gathering from the unit, current owner's knowledge regarding the age and painting history of the unit, and occupancy by children under six (6) years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and any other activity as may be appropriate.

(j) "Lead risk assessor" means a person licensed under RC Chapter 3742 who is responsible for developing a written inspection, risk assessment and analysis plan; conducting inspections for lead hazards in a residential unit; interpreting results of inspections or risk assessments; identifying hazard control strategies to reduce or eliminate lead exposures; and completing a risk assessment report.

(k) "Owner" means the person, partnership or corporation that holds title to the residential rental unit.

(l) "Permanent" means an expected design life of at least twenty (20) years.

(m) "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one (1) of the parties.

(n) "Residential rental unit" means any part of a building being used, designed or intended to be used as an individual's private residence, including a unit occupied by one (1) or more persons regardless of whether the occupant pays rent or provides anything else of value to the titled owner in consideration for occupying the structure. A residential rental unit does not include a unit occupied by the titled owner.

(o) "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

1347.02 CERTIFICATE OF OCCUPANCY REQUIRED.

On and after January 1, 1963, no owner, agent or person in charge of any dwelling structure used or designed, or intended to be used, as a two (2) family dwelling, double house or multiple dwelling, and after January 1, 1984, no owner, agent or person in charge of any dwelling structure used or designed or intended to be used as a single-family dwelling shall rent or lease such structure for residential occupancy unless the owner thereof holds a certificate of occupancy issued by the Building Commissioner for such structure, which certificate has not expired, been revoked or otherwise become null and void.

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1347.03 CERTIFICATE ISSUANCE, CONTENTS, TERM AND REVOCATION.

Application for a certificate of occupancy required by the provisions of this Housing Code shall be made annually by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the Building Commissioner. Such information shall include, but need not be limited to, the name, address, telephone number, and email address of the owner of the property, the name, address, telephone number, and email address of the agent or person in charge of the property, the address of the property, the number of dwelling units contained in the dwelling structure, and a list of the persons living in each dwelling unit along with their telephone number, email address and the relationship of each person living in such unit. Should any of the required information change during the period for which a certificate is issued, such changes shall be conveyed to the Building Commissioner within thirty (30) days to allow for updating of records.

(a) The Building Commissioner may require the submission of a certificate of occupancy stating such information, and he may cause a general inspection of the structure or premises to be made; provided, however, that in the case of a double house or two (2) family house which has all of the separate units occupied by tenants in common, joint tenants, or other co-owners, the Commissioner shall not cause a general interior inspection of the structure other than upon request, complaint or under emergency situations. And further provided that, in situations where one (1) unit of such double house or two (2) family house is owner-occupied, with the remaining unit occupied by those persons identified by Section 1341.15(b) and (c), the Commissioner shall not cause a general interior inspection other than upon request, complaint or under emergency situations.

(b) If a building or other structure is found in compliance with the provisions of this Housing Code, and all other laws, ordinances, rules and regulations applicable thereto, the Building Commissioner shall issue a certificate of occupancy for such building or structure, which shall contain the following information:

- (1) The street address or other identifying characteristics of the building or other structure.
- (2) The name, address, telephone number, and email address of the owner and, if the owner does not reside on the premises, the name, address, telephone number, and email address of the resident agent in charge of the building or structure, and the name, address, telephone number, and email address of the nonresident agent, if any.

(3) The exact nature and extent of the use or occupancy authorized.

(4) The period for which such certificate of occupancy is issued.

(5) The lead-safe certification status, if applicable

Such certificate shall not be valid beyond December 31 of the calendar year in which the certificate is issued.

(c) The Building Commissioner shall have the power to revoke a certificate of occupancy if any false statement is made by the applicant in connection with the issuance of such certificate; for noncompliance of a structure or its use with the requirements of the Housing Code; if the owner, agent or person in charge of a structure refuses to comply with any applicable provisions of this Housing Code; or if the structure is being maintained or

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used in such a manner as to constitute a public nuisance. In the event the Building Commissioner determines to revoke a certificate of occupancy for the reason that the structure is being maintained in such a manner as to constitute a public nuisance, the owner of said structure shall have the right to appeal the revocation to the Nuisance Abatement Board of Appeals pursuant to Section 553.08 of the Codified Ordinances and the Notice of Revocation shall advise the owner of the right of appeal.

(d) An owner of a residential rental unit shall give notification of a change in the name, address, telephone number, and/or email address of a corporation, partnership or person listed on a certificate of occupancy to the Building Commissioner within fourteen (14) days after the change occurs. If the owner fails to give written notification as required in this section, the Building Commissioner may revoke the certificate of occupancy until the owner provides in writing the changed name, address, telephone number, and/or email address.

In addition to revocation of the certificate of rental registration, whoever violates this division (e) shall be fined not more than two hundred dollars (\$200.00). Each three (3) month period during which the violation continues is a separate offense.

(f) Notwithstanding any other provisions of this Chapter, no certificate of occupancy shall be issued by the Building Commissioner for any structure used or intended to be used for residential occupancy located on a parcel which:

(1) Has a certified delinquent property tax balance or other unpaid liens that appear on the Cuyahoga County Real Property Tax duplicate unless the property owner, agent, or person in charge of such structure provides documentation of being on a Delinquent Payment Plan in good standing with the Cuyahoga County Treasury; or

(2) Has an unpaid balance for nuisance abatement costs imposed by the City pursuant to Subsection 553.10(e) that has not been placed on the Cuyahoga County Real Property Tax duplicate.

If such structure as described above is determined by the Building Commissioner to be occupied by a tenant, the Building Commissioner shall provide notice to such tenant of the rejection of application for the issuance or renewal of a certificate of occupancy. Notice shall be by mail, hand delivery, or posting on the structure. Notwithstanding the requirement of notice provided herein, failure of the Building Commissioner to notify a tenant shall not preclude the enforcement of any provision of this Chapter.

1347.04 FAILURE TO APPLY FOR CERTIFICATE; RENEWALS.

(a) The owner of a dwelling structure which subsequently is completed and becomes available for occupancy shall apply for such certificate as soon as practicable, but in no event shall the structure be occupied in whole or in part until such certificate of occupancy has been issued. Failure to so apply shall be deemed to be a violation of this Housing Code and shall subject the owner of the structure to the legal action and penalty prescribed herein.

(b) For each twelve (12) month period beginning January 1, 1995, and for each year thereafter, the owner of a dwelling structure requiring a certificate of occupancy shall

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apply for such certificate on or before December 15 of the year immediately preceding the year in which the certificate is to be issued.

1347.05 POSTING AND AVAILABILITY OF CERTIFICATE.

(a) The owner, agent or person in charge of every multiple dwelling structure shall cause a certificate of occupancy to be posted conspicuously at all times at the main entrance of such structure. The certificate shall be provided with a protective covering and shall be securely affixed to the wall.

(b) The owner or owner's agent of a dwelling structure, other than a multiple dwelling structure, requiring a certificate of occupancy, shall have such certificate available on the licensed premises, or otherwise readily available, for exhibition to the Building Commissioner or other authorized City personnel.

1347.06 FEES FOR ORIGINAL CERTIFICATE.

(a) An application for a certificate of occupancy for any residential property in the City shall be accompanied by a fee of two hundred dollars (\$200.00) for the first dwelling unit in a building plus fifty dollars (\$50.00) for the second dwelling unit in the building and twenty-five dollars (\$25.00) for each additional dwelling unit in the building. The fee for a newly-rented residential property issued after June 30 of any year for the remainder of the calendar year shall be one hundred dollars (\$100.00) for the first dwelling unit in a building, twenty-five dollars (\$25.00) for the second dwelling unit in the building and twelve dollars and fifty cents (\$12.50) for each additional unit in the building. The fee for any one building shall not exceed the sum of one thousand two hundred twenty-five dollars (\$1,225.00) per year. All fees for certificates of occupancy shall be nonrefundable.

(Ord. 201-2013. Passed 12-16-13.)

(b) Any renewal application received after January 1 of any year shall incur a late fee of twenty-five dollars (\$25.00) per month for each month or portion thereof that the application and/or fee is delinquent.

1347.07 CHANGES; NEW CERTIFICATE OF OCCUPANCY; FEES.

(a) If there is a change in the resident agent or nonresident agent as shown by the certificate of occupancy, the owner shall notify the Building Commissioner in writing within thirty (30) days of such change, giving the name and address of the new resident agent or nonresident agent. Failure to notify the Building Commissioner within the specified time shall constitute a violation of this Housing Code.

(b) If there is a change in ownership of record, the certificate of occupancy issued under the provisions of this Housing Code to the former owner shall become null and void within thirty (30) days of the recorded date of such change of ownership, and a new certificate of occupancy must be obtained by the new owner. Application for such new certificate of occupancy shall be made not more than thirty (30) days after such change of ownership

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has occurred, on forms supplied by the Building Commissioner. A fee of fifty dollars (\$50.00) shall be paid upon application for each new certificate. A new certificate shall expire on the same date as that of the certificate which it replaces.

(c) Any change in the nature or extent of the use or occupancy as specified on the certificate of occupancy shall render the certificate of occupancy null and void upon the happening of such change. No such change is permissible under this Housing Code unless such change has been approved by the proper City authorities pursuant to this Housing Code, and unless a new certificate of occupancy, incorporating such change, has been issued. Any such change, without the approval of the proper City authorities, will subject the owner, operator or agent to the penalty provided in Section 1345.99.

(d) A fee of two dollars (\$2.00) shall be paid upon application for each such new certificate. If such change involves the addition of any dwelling units to the number of dwelling units previously authorized, an additional five dollars (\$5.00) shall be charged for each such additional dwelling unit, regardless of the date authorized. Such new certificate shall expire on the same date as that of the certificate which it replaces.

1347.08 LEAD-SAFE CERTIFICATION REQUIRED FOR RESIDENTIAL RENTAL UNITS BUILT BEFORE JANUARY 1, 1978

(a) *Presumption and Policy.* Any residential rental unit originally constructed prior to January 1, 1978 is presumed to have lead-based paint. It is the policy of the City to help prevent the poisoning of children by requiring that the presence of deteriorated lead-based paint on the interior and exterior of residential rental structures built before January 1, 1978 be identified and be correctly addressed by reducing and controlling lead-based paint hazards which may be present, in order to prevent human exposure to these hazards. Therefore, it is the further policy of the City to require all residential rental units in the City constructed prior to January 1, 1978 to have lead-safe certification no later than July 1, 2024.

(b) *Lead-Safe Certification.* Beginning July 1, 2023, all residential rental units constructed before January 1, 1978 shall have lead-safe certification from the Building Commissioner according to a schedule established by the Building Commissioner, but in no case later than July 1, 2024.

A lead-safe certification is valid for two (2) years from the date of issuance. No earlier than thirty (30) days prior to expiration, an owner shall re-apply for a lead-safe certification by providing the necessary documentation as set forth in this section.

(1) To obtain a lead-safe certification, an owner of a residential rental unit constructed prior to January 1, 1978 shall provide to the Building Commissioner a copy of a clearance examination report or lead risk assessment, completed pursuant to applicable Ohio laws and rules, within ninety (90) days prior to the date of submission evidencing that lead hazards were not identified in the unit.

(2) For a structure constructed prior to January 1, 1978 that contains five (5) or more residential rental units to obtain a lead-safe certification, an owner shall provide to the

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Building Commissioner a copy of a report, completed pursuant to applicable law within ninety (90) days prior to the date of submission, that lead hazards were not identified in the minimum number of units tested relative to the total number of units in the structure, according to Federal HUD Guidelines, 2012 edition, as may be amended from time to time.

(c) *Exemption.* To be exempt from the lead-safe certification requirement set forth in this section, the owner of a residential rental unit originally constructed prior to January 1, 1978 shall submit a copy of a comprehensive lead risk assessment and paint inspection report, issued by a lead risk assessor verifying that the unit has been abated of lead hazards in accordance with 40 CFR 745.227 and applicable state law. The report shall have been completed within twenty (20) years prior to the date of submission to the Building Commissioner.

1347.09 INTERNAL REVIEW

The Building Commissioner, through a designated Lead-Safe Auditor, shall monitor the City lead-safe certification process to ensure efficiency and effectiveness. The Lead-Safe Auditor shall perform such other tasks as required by the Building Commissioner, including maintaining a list of certified inspectors and contractors and coordinating regular monitoring and reporting with the Lead-Safe Advisory Board and other appropriate entities.

1347.10 IMPACT OF LEAD-SAFE CERTIFICATION REQUIREMENT

Within one (1) year after implementation and yearly thereafter, the City shall review the impacts of the lead-safe certification requirement to determine if tenants have been unduly displaced and to identify any other negative unintended consequences that may have occurred due to implementation of the lead-safe certification requirement. If negative impacts are occurring or have occurred, the City will re-evaluate the program and work toward eliminating any negative impacts.

1347.11 LEAD-SAFE ADVISORY BOARD; RESPONSIBILITIES

(a) There is hereby established a Lead-Safe Advisory Board to consist of seven (7) members: the Mayor or their designee, and a member of Council appointed by Council (Ex Officio Members); and five (5) members appointed by the Mayor with approval of Council (Appointed Members). Of the Appointed Members, at least one (1) shall be a Tenant of a Residential Rental Unit within the City, and at least one (1) shall be a Landlord of a Residential Rental Unit within the City. Of the original Appointed Members, two (2) shall be appointed for terms of two (2) years and three (3) shall be appointed for terms of three (3) years. Thereafter, the terms shall be four (4) years. None of the Appointed Members shall be current employees of the City. The Lead-Safe Advisory Board shall meet as often as a majority of its members deems necessary, but at least quarterly in each calendar year. The Board shall establish its own rules.

(b) The responsibilities of the Lead-Safe Advisory Board shall be as follows: to provide recommendations for improvements to the City's lead-safe policies and procedures; to report, on a quarterly basis, progress and status of the City's Lead-

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Safe Certification requirement and other lead poisoning prevention related efforts to the Council.

1347.12 RECORDS KEPT BY DEPARTMENT

Copies of all applications, certificates of occupancy, and documents submitted for lead-safe certification are a public record and shall be kept on file by the Building Commissioner as required by applicable law.

1347.13 INSPECTIONS; RIGHT OF ENTRY

(a) All residential rental units shall be subject to inspection for the purpose of determining compliance with the provisions of this Housing Code, Chapter 521, and all other applicable laws, ordinances, rules and regulations. Inspections shall be conducted in accordance with the residential rental unit inspection schedule established by the Building Commissioner, or as may be necessary in the Building Commissioner's discretion pursuant to specific complaint received under this Code.

(b) The Building Commissioner and the Building Commissioner's duly authorized agents or inspectors may enter at reasonable times any residential rental unit registered under this Chapter in accordance with the right of entry defined in Chapter 1345.

Proposed: 09/19/2022

RESOLUTION NO. 141-2022 (CRR), *First Reading*

By Mayor Seren

A Resolution joining communities throughout the nation in proclaiming October, 2022 National Breast Cancer Awareness Month; October 13, 2022, Metastatic Breast Cancer Awareness Day; and October 21, 2022, National Mammography Day; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the American Cancer Society estimates that in 2022 about 287,500 new cases of invasive breast cancer and 51,400 new cases of non-invasive breast cancer will be diagnosed in women, and 2,710 cases in men, and that about 43,550 women and 530 men will die from the disease; and

WHEREAS, early detection and prompt treatment can significantly reduce suffering and deaths caused by this disease; and

WHEREAS, mammography is recognized as the single most effective method of detecting breast changes that may be cancerous long before physical symptoms can be seen or felt; and

WHEREAS, metastatic breast cancer refers to a condition in which stage IV breast cancer cells travel from the breast, either through the bloodstream or the lymphatic system, to other parts of the body, including the bones, liver, lungs, or brain, and continue to grow in their new location; and

WHEREAS, in 1997 the United States Conference of Mayors launched a Mayors' Campaign Against Breast Cancer, joining in the promotion of Breast Cancer Awareness Month and National Mammography Day; and

WHEREAS, in 2009 the United States Senate and House of Representatives passed Resolutions to designate the first National Metastatic Breast Cancer Awareness Day.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby proclaims October 2022, National Breast Cancer Awareness Month; October 13, 2022, Metastatic Breast Cancer Awareness Day; and October 21, 2022, National Mammography Day; and urges women and men in the community of all ages to learn about screening and mammography and to seek appropriate services.

RESOLUTION NO. 141-2022 (CRR)

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to recognize national breast cancer awareness month on a timely basis. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of the Council

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

Proposed: 09/19/2022

RESOLUTION NO. 142-2022 (CRR), *First Reading*

By Mayor Seren

A Resolution proclaiming October 2022 as Domestic Violence Awareness Month; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, one in four women and a smaller, although significant, number of men will experience domestic violence in their lifetime; and

WHEREAS, children who witness domestic violence are much more likely to abuse their future partners or children; and

WHEREAS, domestic violence can happen to anyone regardless of gender, income, ethnicity, race, religion, age, or sexual orientation and/or identity; and

WHEREAS, locally, the Domestic Violence & Child Advocacy Center has provided services to victims of domestic violence for forty years; and

WHEREAS, the mission of the Domestic Violence & Child Advocacy Center is to empower individuals, promote justice, and mobilize the community so that all persons are free from violence and abuse in their homes; and

WHEREAS, the City of Cleveland Heights has been in the forefront of the fight against domestic violence, with its Police Department and Prosecutor being routinely commended for their aggressive, but fair, enforcement of domestic violence laws.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby proclaims October 2022 as Domestic Violence Awareness Month and urges all of its residents to educate themselves on the issues and to encourage and support victims of domestic violence and child abuse.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its content, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

RESOLUTION NO. 142-2022 (CRR)

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to recognize Domestic Violence Awareness Month on a timely basis. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of the Council

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor