Exhibit A to Ordinance No. 900

Administrative Warrants

1.100 – Definitions.

For purposes of this Section, the following terms are defined as follows:

(1) "Business Days" means days of the week excluding Saturdays, Sundays, and holidays observed by the City.

(2) "City" means the City of Wilsonville, Oregon.

(3) "City Manager" means the City of Wilsonville City Manager or designee.

(4) "Code" or "Wilsonville Code" means the Code of Ordinances of the City of Wilsonville, Oregon.

(5) "Municipal Judge" means the judicial officer described in Section 22 of the City of Wilsonville Charter and Section 2.140 of the Wilsonville Code or designee.

(6) "ORS" means the Oregon Revised Statutes.

1.110 – Authorizing Municipal Judge.

The Municipal Judge is hereby authorized to issue administrative search warrants upon application by the City Manager, acting in the course of their official duties, whenever an inspection, investigation, removal, or Code violation abatement within any place is required or authorized by any City ordinance or regulation. An administrative warrant is an order, in writing, in the name of the City, signed by the Municipal Judge directed to the City Manager commanding the City Manager to conduct any inspection, investigation, removal, or abatement required or authorized by any provision of law. An administrative warrant shall not be deemed a warrant of arrest within the meaning of ORS Chapter 133.

1.120– Right of Entry.

(1) The City Manager may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this Code, or whenever the City Manager has probable cause to believe that there exists in any structure or upon any property any condition which constitutes a violation of provisions of this Code.

(2) In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken.

(a) The City Manager shall first make a reasonable attempt to locate the owner or other persons having charge or control of the property, present proper credentials and request entry.

(b) If entry is refused or if the owner or other persons having charge or control of the property cannot be located, the City Manager may attempt to obtain entry by obtaining a warrant pursuant to this Section.

1.130 – Grounds for Issuance.

(1) A warrant for inspection, investigation, removal or abatement purposes shall be issued only upon probable cause, supported by affidavit, particularly describing:

(a) The applicant's status in applying for the warrant hereunder;

(b) The Wilsonville Code provision, ordinance, or regulation requiring or authorizing the inspection, investigation, removal, or abatement;

(c) The location, building, and/or structure to be inspected, investigated, or entered;

(d) The purpose for which the inspection, investigation, removal, or abatement is to be made, including the basis upon which probable cause exists to inspect;

(e) The basis upon which probable cause exists to inspect, investigate, remove, or abate the violation; and

(f) In the case of removal or abatement, a statement of the general types and estimated quantity of items to be removed or conditions to be abated.

(g) In addition, the affidavit shall contain either a statement that entry has been sought and refused, that the property is unoccupied or not in the possession of any person or at the time reasonably believed to be unoccupied, or facts or circumstances reasonably showing that the purposes of the inspection, investigation, removal, or abatement might be frustrated if entry were sought without a warrant.

(2) Probable cause shall be deemed to exist if:

(a) Reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection or for removing and abating violations are satisfied with respect to any building or structure or upon any property; or

(b) An investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with regulations; or

(c) There is probable cause to believe that a violation exists for which removal or abatement is required or authorized by this Chapter.

1.140 – Procedure for Issuing Administrative Warrant.

(1) Before issuing any warrant, the Municipal Judge may examine under oath the applicant and any other witness and must be satisfied of the existence of grounds for granting such application.

(2) If the Municipal Judge is satisfied that probable cause for the inspection exists, the Municipal Judge shall issue a warrant particularly describing:

(a) The name and title of the person or persons authorized to execute the warrant;

(b) The property to be entered; and

(c) The purpose and any limitations of the inspection, investigation, or abatement.

The warrant shall contain a directive that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the Municipal Judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

1.150 – Execution of Administrative Warrant.

(1) Except as provided in subsection 2 of this Section, in executing a warrant on occupied property, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present credentials, authority and purpose to an occupant or person in possession of the location designated in the warrant and show the warrant or a copy thereof upon request.

(2) In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in Subsection 1 of this Section, but may promptly enter the designated location if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. A copy of the warrant shall be left in a conspicuous place if the property is unoccupied.

(3) If any items are seized as specified by the warrant, a list of property taken shall be left in a conspicuous place.

(4) A peace officer may be requested to assist in the execution of the administrative warrant.

(5) An inspection pursuant to an administrative warrant shall not be made by means of forcible entry, except that the judge may, by an endorsement on the face of the warrant, expressly authorize execution of the warrant by forcible entry where the affidavit, or a supplemental affidavit after the warrant has once been issued, contains information sufficient to satisfy the judge that there are reasonable grounds to believe that any of the following situations exists:

a. A probable violation of any of the provisions of this code which, if such violation in fact existed, would represent an immediate threat to health or safety; or

b. Where prior attempts to serve a warrant or obtain consent have met with refusal of the owner or occupant of the place described in the warrant; or

c. Where reasonable attempts have been made to secure the cooperation of the owner of the property described in the warrant, which property is unoccupied and entry cannot be gained except with such owner's cooperation or by force, and such cooperation has been refused or is not obtainable after reasonable efforts.

(6) A warrant must be executed within ten (10) Business Days of its issue and returned to the Municipal Judge by whom it was issued within ten (10) Business Days from its date of execution, unless such Municipal Judge before the expiration of such time, by endorsement thereon, extends the time for five (5) Business Days. When the warrant is returned to the Municipal Judge, it must include a list of any and all items seized in the execution of the warrant. After the expiration of the time prescribed by this subsection, the warrant, unless executed, is void.

1.160 – Execution of Warrant by Forcible Entry.

(1) In execution of a properly endorsed administrative warrant by forcible entry, any city official acting under the warrant shall be accompanied by a peace officer who shall execute the warrant as to the manner of gaining entry, and who shall stand by during the inspection to prevent any interference therewith.

(2) In the execution of an administrative warrant by forcible entry the officer has the same power and authority, in all respects, to break open any door or window, to use all necessary and proper means to overcome any forcible resistance made to the officer or to call any other person to the officer's aid that the officer has in the execution or service of a warrant of arrest.

1.170 – Disposal of Seized Property.

The City Manager may cause any items removed pursuant to an abatement warrant to be disposed of in an approved manner whenever the City Manager, in their sole discretion, finds that the fair and reasonable value of the items at resale would be less than the cost of storing and

selling the items. In making the above determination, the City Manager may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances and all other reasonable and necessary costs of holding the sale.

1.180 – Severability.

The provisions of these Sections 1.100 through 1.170 are severable, and if any part of these Sections 1.100 through 1.170 should be held void by any court of competent jurisdiction, such invalidity shall not affect the remainder of Sections 1.100 through 1.170, and the remainder of Sections 1.100 through 1.170 shall remain in full force and effect.