

CODE ENFORCEMENT UNIT ORDINANCES



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CHAPTER 2. ADMINISTRATION

Article VII. Administrative Hearings Bureau

Sec. 2-901. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Administrative hearings bureau" means the administrative hearings bureau established pursuant to this article and as provided in MCL 117.4q.

"Blight violation" means the following:

- (1) Any blight or blighting factors violation as set forth in section 22-34.
- (2) A violation of the property maintenance code as set forth in section 10-33(b).

"Blight violation notice" means a notice of a blight violation and may be in the form of a ticket or other written notice.

"Notices" may be served and are deemed to be served on the date the notice was personally delivered, deposited in the United States mail, personally left at the premises or posted on the premises.

Sec. 2-902. Administrative hearings bureau.

The city hereby establishes an administrative hearings bureau, pursuant to MCL 117.4q. The administrative hearings bureau will consist of and operate through an individual administrative hearing officer or officers, as set forth in section 2-903.

Sec. 2-903. Administrative hearings officers.

(a) Appointment and compensation. An administrative hearing officer shall conduct the adjudicatory hearings of the administrative hearings bureau provided for herein. The city manager shall appoint one or more hearing officers for a term of one year in the manner provided for the appointment of administrative officers in the City Charter; provided, all hearing officers shall be attorneys licensed to practice law in the State of Michigan for at least five years. Administrative hearing officers may be removed from their position for reasonable cause as set forth in MCL 117.41q prior to the expiration of their term. Compensation of administrative hearings officers shall be recommended by the city manager and set by resolution of the city council from time to time.

(b) Training. Before conducting administrative hearings, administrative hearings officers shall successfully complete a formal training program which includes the following:

- (1) Instruction on the rules of procedure of the administrative hearings that they will conduct.
- (2) Orientation to each subject area of the code violations they will adjudicate.
- (3) Observation of administrative hearings.
- (4) Participation in hypothetical cases, including ruling on evidence and issuing final orders.
- (5) The importance of impartiality in the conduct of the administrative hearing and adjudication of the violation.

(6) Instructions on the preparation of a record that is adequate for judicial review.

(c) Authority and duties. The authority and duties of a hearing officer shall include the following:

- (1) Hearing testimony and accepting evidence that is relevant to the existence of a blight violation.
- (2) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of a party or a party's attorney.
- (3). Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing.
- (4) Issuing a determination whether a blight violation exists based upon the evidence presented at the hearing. The determination shall be in writing and shall include written findings of fact, a decision and an order. The city shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. If the alleged violator fails to appear, and the blight violation notice is sworn, a decision and order of default may be entered. A decision and order finding the alleged violator responsible for the violation shall include a civil fine, if any, or any sanctions or action with which the violator must comply, or both.
- (5) Imposing reasonable and proportionate sanctions consistent with applicable code provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation; provided a hearing officer shall not impose a civil fine in excess of \$10,000, in the aggregate. The maximum monetary civil fine allowed under this section excludes costs of enforcement or costs imposed to secure compliance with city code and are not applicable to enforce the collection of any tax imposed and collected by the city.
- (6) In addition to fines and costs imposed, the hearing officer shall impose a justice system assessment of \$10.00 for each blight violation determination. Upon payment, the city shall transmit that assessment to the state treasury as required pursuant to MCL 117.4q(13).

Sec. 2-904. Blight violation notice.

(a) Contents. The city shall issue a blight violation notice to an individual believed to be responsible for a blight violation. The blight violation notice must advise the individual of the nature of the alleged violation, the date of the inspection and the name of the inspector. The notice shall direct the named person to pay a civil fine for the violation or appear at a specific date and time for hearing before the administrative hearings bureau as provided in this section at least 14 days after the date the blight violation notice is served.

(b) Admission of responsibility. If the alleged violator wishes to admit responsibility for the blight violation, the person may do so by appearing in person, by representation or by mail. If appearance is made by representation or mail, the bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a hearing officer may order any of the sanctions permitted pursuant to this article.

(c) Denial of responsibility or admission with explanation. If the alleged violator wishes to deny responsibility for the blight violation, or admit responsibility with an explanation, the person may do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.

(d) Pre-hearing removal or correction of blight violation (fix-it ticket). The blight violation notice may also designate a date by which if a person removes or corrects the blight violation, the inspector may dismiss the blight violation notice. The date of the correction, if any, set forth in the blight violation notice, must be at least 14 days prior to the administrative hearings bureau hearing date. The decision as to whether this option for a pre-hearing removal or correction is included in the blight violation notice shall be made by the inspector based upon the nature of the violation, the history of prior violations or other relevant factors. At the request of the recipient of a blight violation notice, the inspector may also reschedule the hearing date to provide the person additional time to correct the violation where the person demonstrates a willingness to correct the violation.

(e) Fines. The fines for blight violations shall be set by resolution of city council from time to time.

(f) Waiver of fines. After a decision set forth in section 2-905, the city may waive a fine for a blight violation for a first time offender if the offender corrects the violation.

(g) Service of a blight violation notice or rescheduled hearing date. A blight violation notice or a rescheduled hearing date may be served by any of the following methods:

- (1) Delivering the notice to the owner personally or leaving the notice at his or her residence.
- (2) Mailing the notice to such owner at his or her last known address by first class mail.
- (3) If the owner is unknown, posting the notice in some conspicuous place on the premises.

Sec. 2-905. Hearing.

(a) Timing. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator, if he or she requests, shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, "nonemergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first-class mail, the 14-day period begins to run on the day that the notice is deposited in the mail.

(b) Procedure. A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. A party may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. The rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

(c) Decision. Any decision by a hearing officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(d) Default. If at the time set for a hearing neither the recipient of a blight violation notice, nor his or her attorney of record appears and the blight violation notice is properly completed and sworn, the administrative hearing officer may find the recipient in default and enter an order of default which includes the sanctions as permitted under section 2-903(c). A copy of the order of default must be served on the party by United States mail.

(e) Petition to set aside default. The recipient of a notice of blight violation who is found to be in default may petition the administrative hearing officer to set aside the order of default and set a new hearing date, at any time, if the petitioner establishes that the petitioner was not provided with proper service of process. If the petition is granted, the administrative hearing officer must proceed with a new hearing on the underlying matter as soon as practical. An administrative hearing officer may set aside any order entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the administrative hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or, at any time, if the petitioner establishes that the petitioner was not provided with proper service of process. If the petition is granted, the administrative hearing officer must proceed with a new hearing on the underlying matter as soon as practical.

Sec. 2-906. Appeal.

(a) Time to appeal. A party may file a claim of appeal within 28 days after entry of the final decision and order by the hearing officer with the St. Clair County Circuit Court.

(b) Appeal bond. An alleged violator who appeals a final decision and order to circuit court shall post with the administrative hearings bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of Supreme Court rules for an appeal to the circuit court, the appeal may be considered abandoned, and the bureau may dismiss the appeal on seven days notice to the parties. The administrative hearings bureau must promptly notify the circuit court of a dismissal, and the circuit court shall dismiss the claim of appeal. If the appeal is dismissed or the decision and order are affirmed, the administrative hearings bureau may apply the bond to the fine and costs. An appeal by the city must be asserted by the city's attorney and a bond is not required.

(c) Review on appeal. An appeal to the circuit court shall be a review by the circuit court of the certified record provided by the bureau. Pending appeal, and subject to the bond requirement provided for herein, the hearing officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement provided for herein, the circuit court may stay the order and any sanctions or costs imposed. The circuit court, as appropriate, may affirm, reverse, or modify the decision or order of the bureau, or remand the matter for further proceedings. The circuit court shall hold unlawful and set aside a decision or order of the hearing officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

- (1) In violation of the Constitution or a statute, charter, or ordinance;
- (2) In excess of the authority or jurisdiction of the agency as conferred by statute, charter, or ordinance;
- (3) Made upon unlawful procedure resulting in material prejudice to a party;
- (4) Not supported by competent, material, and substantial evidence on the whole record;

- (5) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion; and/or
- (6) Affected by other substantial and material error of law.

Sec. 2-907. Enforcement of order.

(a) Payment. All fines and assessments ordered by an administrative hearing officer shall be paid to the city's treasurer. Any fine, sanction, or cost imposed by an administrative hearing officer's order that remains unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures is a debt due and owing the city and, as such, may be collected in accordance with applicable law, and shall become a lien on the property and assessed as a single lot assessment against such property.

(b) Enforcement. After the expiration of the period in which judicial review may be sought, unless stayed by a court of competent jurisdiction, the findings, decision, and order of an administrative hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction, and may be enforced against assets of the owner other than the building or structure.

(c) Failure to comply. In any case in which a respondent fails to comply with an administrative hearing officer's order to correct a blight violation or imposing a fine or other sanction as a result of a blight violation, any expenses incurred by the city to enforce the administrative hearing officer's order, including but not limited to, attorney's fees, court costs, fines, fees, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or an administrative hearing officer, is a debt due and owing the city. Before an administrative hearing officer assesses any expense, the respondent must be provided notice that states that the respondent must appear at a hearing before an administrative hearing officer to determine whether the respondent has failed to comply with the administrative hearing officer's order. The notice must set the time for the hearing, which may not be less than seven days from the date that notice is served. Notice is sufficient if served by first class mail and the seven-day period begins to run on the date that the notice is deposited in the mail.

(d) Remedies not exclusive. Nothing in this section prevents the city from enforcing or seeking to enforce any order of an administrative hearing officer in any manner, which is in accordance with applicable law.

Sec. 2-908. Administrative adjudication procedures not exclusive.

Notwithstanding any other provision of this chapter, neither the bureau's authority to conduct administrative adjudication procedures nor the institution of such procedures under this chapter precludes the city from seeking any remedies for blight violations through the use of any other administrative procedure or court proceeding where authorized by law. The city may elect to pursue a court proceeding to address an emergency situation where there exists an immediate threat to the public interest, safety or welfare.

Sec. 2-909. Rules and procedures.

The city may establish rules and procedures necessary for the efficient operation of the bureau. Such rules and procedures shall be made publically available.

Sec. 2-910 through 2-999. Reserved.

CHAPTER 10. BUILDING AND BUILDING REGULATIONS

ARTICLE I. In General

Sec. 10-1. Violations as municipal civil infractions.

Except as provided in Sec. 10-33 (b), any violation of this chapter shall be treated as a municipal civil infraction, unless otherwise provided in this chapter.

Sec. 10-2 through Sec. 10-30. Reserved.

ARTICLE II. Single State Construction Code

Sec. 10-31. Adoption.

(a) Pursuant to the provisions of the single state construction code, in accordance with Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the city assumes responsibility for the administration and enforcement of the state code throughout its corporate limits.

(b) The Michigan Building Code (including the Property Maintenance Code), the Michigan Electrical Code, the Michigan Plumbing Code, and the Michigan Mechanical Code are hereby adopted by reference pursuant to the act cited in subsection (a) of this section.

Sec. 10-32. Fees.

A fee schedule for permits and inspections under this article shall be set by resolution of the city council from time to time.

Sec. 10-33. Penalty.

(a) Except as provided in Sec. 10-33(b), all violations of this article shall be municipal civil infractions.

(b) Any violations of the following sections of the International Property Maintenance Code shall be treated as a “blight violation” within the meaning of Sec. 2-901:

- (1) Section 301 (General);
- (2) Section 302 (Exterior Property Areas);
- (3) Section 304, limited to subsections:
 - a. 304.1.1.8 (roofing)
 - b. 304.2 (protective treatment)
 - c. 304.6 (exterior walls)
 - d. 304.7 (roofs and drainage)
 - e. 304.11 (chimneys and towers); and
- (4) Section 308 (Rubbish and Garbage).

(c) The imposition of any sentence shall not exempt an offender from compliance with this article.

(d) The penalty for a municipal civil infraction or blight violation shall not prohibit the city from seeking injunctive relief against a violator or such other appropriate relief as may be provided by the law.

(e) A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(f) The rights and remedies provided in this section are cumulative and in addition to any other remedies provided by law.

Sec. 10-34 through Sec. 10-70. Reserved.

CHAPTER 22. ENVIRONMENT

Article I. In General

Sec. 22-1. Violations as blight violations.

(a) Any violation of Article II shall be treated as a blight violation, unless otherwise provided in this chapter.

(b) Any violation of Articles III and IV shall be treated as a municipal civil infraction, unless otherwise provided in this chapter.

Sec. 22-2 through Sec. 22-30. Reserved.

Article II. Blight

Sec. 22-31. Additional remedies.

The penalties and remedies provided in this article for the elimination of blight and the abatement of nuisances and offensive conditions are in addition to any other penalty or remedy provided by ordinance, statute, or at common law. Any other penalty or remedy provided by ordinance, statute, or at common law shall not be construed as a limitation upon the penalties and remedies as provided in this article, nor shall the remedies and penalties provided in this article be construed as a limitation on any penalties or remedies available by other ordinance, statute, or at common law.

Sec. 22-32. Purpose

It is hereby found and declared that:

- (1) Areas of the city are or may become blighted with the resulting impairment of taxable values upon which, in large part, city revenues depend;
- (2) Such blighted areas are detrimental or inimical to the health, safety, morals, and general welfare of the citizens and to the economic welfare of the city;
- (3) In order to improve and maintain the general character of the city, it is necessary to rehabilitate such blighted areas;
- (4) The conditions found in blighted areas cannot be remedied by the ordinary operations of private enterprise with due regard to the general welfare of the public, without public participation;
- (5) The purposes of this article are to rehabilitate such areas by eliminating blight and blight factors within all areas of the city for the protection of the health, safety, morals and general welfare of the city; to preserve existing values of other properties within or adjacent to such areas and all other areas of the city; and to preserve the taxable value of the property within such areas and all other areas of the city; and
- (6) The necessity and the public interest for provisions set forth in this article are hereby declared as a matter of legislative determination to be a public purpose and for the protection of the health, safety and welfare of the residents of the city.

Sec. 22-33. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Building materials" means, but is not limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or other materials used for construction.

"Commercial building" means any building or structure used for business purposes, including but not limited to office, retail, service and/or industrial building or structures.

"Domestic refuse" means food or animal waste and any waste consisting of combustible materials, such as paper, cardboard, yard clippings, wood or similar materials, generated in a dwelling. Domestic refuse shall be enclosed in sealed trash receptacles and located where it is not visible from any public street or sidewalk whenever possible, except during normal collection schedules.

"Garden" means an area of ground established for the growth of fruits, vegetables, herbs, shrubs or flowers.

"Junk" means, but is not limited to, parts of machinery or motor vehicles, tires, vehicle parts, unused stoves or other appliances stored in the open, remnants of wood, metal or any other material or other cast-off material of any kind whether or not the material could be put to any immediate reasonable use. "Junk" also includes boats, campers, travel trailers, motorized homes, trailers of any type and recreational equipment or vehicles that are not maintained in good condition and repair or are in an otherwise dilapidated condition.

"Junk vehicle" means any motor vehicle which is unlicensed for use upon the roads and highways in the state for a period in excess of 15 days and shall also include, whether so licensed or not, any motor vehicle which is inoperative for any reason. Junk vehicles will be tagged for removal within 48 hours or can be issued a "fix-it ticket" for certain lengths of time not to exceed 30 days.

"Landscaping" means those elements which enhance the appearance of land and buildings, including lawns, trees, shrubs and flowers.

"Lawn" means grass or sod to hold the earth and to prevent dust and/or the establishment of noxious weeds.

"Noxious or poisonous weeds" includes Canada thistles, milkweed, wild carrots, oxeye daisies, ragweed, goldenrod, burdock dodders, mustards, poison sumac, hoary alyssum and poison ivy.

"Open storage" means the storage or accumulation of items which are visible from any public street, the sidewalk or from any adjoining property.

"Parking lot" means all areas set aside or designed for the parking of motor vehicles or the loading and unloading of motor vehicles on the premises or in conjunction with a shopping center and includes all driveways, aiseways or other areas supplementary thereto.

"Proprietor" means every owner, lessee, tenant, or other person having the right to possession of all or a portion of a shopping center or commercial building. Where there is more than one such person, all shall be jointly and severally obligated by the terms of this article.

"Shopping center" means one or more commercial buildings, whether or not under common ownership, which are operated as an entity or in cooperation with one another and which have common parking facilities.

"*Uninhabitable structure*" means any structure located in any zoning district within the city, which cannot be used for the purpose intended due to physical deterioration caused by fire, wind, natural disaster.

"*Vacant building*" means any structure not in use or inhabited for the purpose intended.

Sec. 22-34. Causes of blight or blighting factors.

It is hereby determined that the following uses, structures, activities, and conditions are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods and commercial areas. No person shall maintain or permit to be maintained any causes of blight or blighting factors upon any property in the city, whether owned, leased, rented, vacant occupied, or otherwise described. Following are causes of blight or blighting factors:

- (1) Open Storage. Open storage or accumulation upon any property, street or alley of:
 - a. Junk vehicles, except in a completely enclosed building. If properly licensed, a vehicle that is not currently in use may be located in the driveway provided it is sheltered beneath a properly fitting cover manufactured specifically for that purpose and with a special storage permit obtained from the Department of Public Safety - Police Department.
 - b. Building materials unless such materials are for use in construction occurring upon such property and such construction is occurring under a valid and current building permit issued by the city.
 - c. Junk, trash, debris, rubbish or refuse of any kind, except domestic refuse that is stored in a manner that does not create a nuisance for a period not to exceed seven days.
- (2) Upholstered furniture, automobile seats/parts. Storage, display or use of upholstered or other furniture or discarded automobile seat/parts on exterior porches, patios, or in the yard that were not designed, manufactured, sold or normally intended for use as outdoor furniture.
- (3) Exterior of structure. The exterior of any structure not maintained as follows:
 - a. Address/unit number with a minimum height of 4" and a minimum stroke width of .5" that contrasts with its background and is visible from the public way.
 - b. No broken or cracked window panes; all windows fully glazed without inserts or patches. Windows, doors and open wall spaces shall not be boarded up for more than 30 days.
 - c. Wood surfaces are clean, stained or painted with no chipping or peeling paint.
 - d. Exterior surfaces are clean and free from accumulation of dirt, grime, or graffiti.
 - e. Exterior, including siding and roof, is in good repair without missing, damaged or deteriorated materials, including but not limited to, shingles, siding, fascia boards, trim, shutters, porch skirting, or similar appurtenances.
 - f. Roofs and roofing shingles are in good condition and not covered with tarps or other materials in excess of 30 days if repairs are being made.
 - g. Porches and stairs are stable and free of cracked boards or block.

- h. Materials used as a repair and/or replacement shall be of the same or similar material, including size, shape and color and shall be free from damage or defect.
- (4) Structures. The following structures are not allowed:
- a. Uninhabitable structures.
 - b. Vacant buildings not maintained in accordance with section 22-34(3). Vacant buildings must be kept securely locked to prevent entry thereto by the elements or by unauthorized persons.
 - c. Any partially completed structure unless such structure is in the course of construction in accordance with a valid and current building permit issued by the city and unless such construction is completed within a reasonable time defined as 12 months from date of issuance of building permit, along with any written extensions granted by the building inspector.
- (5) Landscaping. Landscaping not meeting the following:
- a. Does not create a visual barrier, safety or environmental hazard, contribute to conditions of erosion or blight or is a violation of city codes.
 - b. Ground surfaces covered with a lawn, as defined in Sec. 22-33, except a paved or graveled driveway, approved parking area (in accordance with city codes), or garden area.
 - c. Shrubs trimmed in a manner that provides a clear view of the front entrance and does not create a visual barrier or hazard.
 - d. Lawn maintained to prevent the establishment of noxious or poisonous weeds and vegetation with no accumulation of dead grasses, weeds, brush, underbrush, or similar vegetation. If a weed barrier material is used, it must be a product normally sold for that intended use, such as landscape fabric.
 - e. Lawn mowed regularly so as to not exceed eight inches in height.
 - f. Maintaining that portion of land adjacent to the property between the city sidewalk and curblines or edge of the roadway and the right-of-way areas, including lawn extensions and public alleyways.
- (6) The following are additional causes of blight or blighting factors within commercial areas:
- a. Buildings. The exteriors of all commercial buildings, or industrial buildings, or buildings located in any shopping center shall be maintained so as to present a neat and orderly appearance. There shall be no broken windows and all windows shall be fully glazed without inserts or patches, painted surfaces shall be kept properly painted, block, brick or other siding in good repair with no holes, loose or missing pieces. There shall be no outside storage or display of any items whether offered for sale, disposal, junk, junk automobiles, or otherwise. Exterior paint/stain shall be free from chipping or peeling. Exterior surfaces shall be clean and free from accumulation of dirt, grime, or graffiti and all other appropriate measures shall be taken to properly maintain the buildings. Where buildings within a shopping center are owned by separate entities, the obligations of this section shall fall only upon those persons responsible for the maintenance of the particular buildings which are not being maintained in accordance with this section.

- b. Landscaping. Pursuant to this article, the proprietor shall install and maintain landscaping on all areas of the shopping center or commercial building premises not occupied by buildings, sidewalks, parking lots, driveways and similar surfacing. The requirement of landscaping also is specifically applicable to those parts of highway rights-of-way adjoining the shopping center or commercial building premises and not actually used for travel purposes. Landscaping shall consist, at the minimum, of the establishment of a sod or other material to hold the earth and prevent dust and the establishment of noxious weeds. The proprietor shall maintain the landscaping and shall see that all lawns are mowed regularly, shrubs are appropriately trimmed and noxious weeds are eliminated.
- c. Parking lots. Pursuant to this article, all parking lots shall be provided with pavement having a permanent, durable and dustless surface and shall be graded and drained so as to dispose of all surface water accumulated within the area. All cracks, potholes or other breaks in the parking lot surface shall be promptly filled and repaired by the proprietor. The proprietor shall provide for snow removal services, in order that the parking lot will be reasonably available for use by the public.
- d. Trash removal. Pursuant to this article, the proprietor shall provide for the removal of all waste, trash, rubbish or refuse of all kinds from the shopping center at regular intervals. Such intervals shall not exceed one week, and trash collections shall be made more often if necessary to prevent the accumulation of refuse so as to create a nuisance. Between collections, the refuse shall be stored in covered containers constructed in such a way as to prevent escape of the refuse. Dumpsters and/or covered containers shall be kept enclosed on three sides or screened on three sides.
- e. Trash, rubbish or debris, loose. Pursuant to this article, the proprietor shall be responsible for seeing to it that the premises of the shopping center or commercial building, including the parking lot and specifically including that part of any highway right-of-way adjoining the premises and not actually used for the travel of motor vehicles, are kept free of junk, trash, rubbish, debris or refuse of any kind. The proprietor shall see to it that the premises are cleaned of such debris or refuse or any such refuse which has blown on adjoining property at least each day and shall take all reasonable steps to provide containers for discards and to order his employees and encourage the public to use them.

Sec. 22-35. Enforcement and penalty for Sec. 22-34, except for subsections 22-34(5)d, 22-34(5)e and 22-34(5)f.

(a) The code enforcement administrator, or designees, shall enforce this article and shall periodically inspect the city for causes of blight or blighting factors within the city.

(b) The existence of any condition as described in section 22-34 shall be a blight violation and the enforcement officer may cause the immediate issuance of a blight violation notice or citation. Reoccurrence of the same violation may result in additional blight violation citations for each day that the violation exists.

(c) Notwithstanding the issuance or nonissuance of a blight violation notice or citation, the owner and, if possible, the occupant of any property upon which any of the causes of blight or blighting factors as set forth in section 22-34, except subsections 22-34(5)d, 22-34(5)e or 22-34(5)f, may be notified in

writing ("removal notice") to remove or eliminate such causes of blight or blighting factors from such property within the period of time designated in the notice as deemed appropriate by the enforcement officer. Such removal notice shall be served as provided in section 2-904(g) upon the occupant or owner. In addition, once the removal notice described in this subsection has been given, it shall be deemed sufficient notice for as long as the causes of blight described in the notice remain uncorrected. Additional time to remove the causes of blight or blighting factors may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

(d) Failure to comply with such notice by the owner and/or the occupant for the removal of the causes of blight or blighting factors within the time allowed shall also constitute an additional blight violation for every day past the date of removal designated in the notice.

(e) If the city manager, or his or her designee, determines that blight or blighting factors exist or the blight or blighting factors have not been removed after service of the removal notice as set forth in this article, the cause of the blight or blighting factors may be removed by the city upon the direction of the city manager, or designee. In addition to all other remedies available, all of the costs of removal of such blight shall be billed to the owner of the subject property, and all invoices which remain unpaid for more than 30 days shall become a lien on the property and assessed as a single lot assessment against such property.

(f) If a directive issued by the city manager, or designee, pursuant to subsection (e) of this section involves the demolition of any dwelling or other structure and such order is not complied with within ten days after its issuance, the city council shall hear such report from the city manager, or designee, regarding the determinations previously made in the matter and based on such report shall make its determination whether to proceed with the proposed demolition and to issue such resolution as the council deems appropriate under the circumstances, including, but not limited to, the demolition of the structure by the city and all of the associated demolition costs shall be billed to the owner of the subject property, and all invoices which remain unpaid for more than 30 days shall become a lien on the property and assessed as a single lot assessment against such property. The owners of record title to the subject property, any lienholder and any land contract purchaser of such property shall be notified of the city council hearing and shall be given the opportunity to be heard at the public hearing. Nothing in this subsection shall be construed to relieve the city manager of his or her authority to order the immediate abatement or demolition of structures under emergency circumstances as otherwise provided in this code.

Sec. 22-36. Enforcement and penalty of subsections 22-34(5)d, 22-34(5)e and 22-34(5)f.

(a) A violation of subsections 22-34(5)d, 22-34(5)e or 22-34(5)f shall constitute a blight violation within the meaning of section 2-901. A blight violation notice may be issued to the occupant or owner of any lot or land found to be in violation of subsections 22-34(5)d, 22-34(5)e or 22-34(5)f and shall be served as provided in section 2-904(g).

(b) A blight violation notice for a violation of subsections 22-34(5)d, 22-34(5)e or 22-34(5)f if it is the first notice for the calendar year, may include a date, no more than five days after issuance of the blight violation notice, by which if a violator removes or corrects the blight violation, the inspector may dismiss the blight violation notice.

(c) If a violation of subsections 22-34(5)d, 22-34(5)e or 22-34(5)f is not remedied within seven days from the issuance of the blight violation notice, in addition to any other sanctions provided under section 2-903, the city may enter the property and remove the unlawful growth of weeds, brush, or grass

without further notice. All of the costs of removal of such unlawful growth shall be billed to the owner of the subject property, and all invoices which remain unpaid for more than 30 days shall become a lien on the property and assessed as a single lot assessment against such property, provided that the original violation is sustained following the procedure set forth in section 2-905 and all appeals are exhausted.

Sec. 22-37 through Sec. 22-60. Reserved.

APPENDIX A

International Property Maintenance Code Excerpts

CHAPTER 3

GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* which they occupy and control.

301.3 Vacant structures and land. All vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. All *premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of (jurisdiction to insert height in inches). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the

property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

302.5 Rodent harborage. All structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

302.7 Accessory structures. All accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure

shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;

10. ~~Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;~~
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

~~[F] 304.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).~~

304.4 Structural members. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be

kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

~~**304.8 Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.~~

~~**304.9 Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.~~

~~**304.10 Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.~~

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

~~**304.12 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.~~

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

~~**304.14 Insect screens.** During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of not less than 16 mesh per inch (16~~

~~mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.~~

~~**Exception:** Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.~~

304.15 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to *dwelling units* and *sleeping units* shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house*, *housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *Inter-*

4. Masonry that has been subjected to any of the following conditions:

- 4.1. *Deterioration*;
- 4.2. *Ultimate deformation*;
- 4.3. Fractures in masonry or mortar joints;
- 4.4. Fissures in masonry or mortar joints;
- 4.5. Spalling;
- 4.6. Exposed reinforcement; or
- 4.7. *Detached*, dislodged or failing connections.

5. Steel that has been subjected to any of the following conditions:

- 5.1. *Deterioration*;
- 5.2. Elastic deformation;
- 5.3. *Ultimate deformation*;
- 5.4. Metal fatigue; or
- 5.5. *Detached*, dislodged or failing connections.

6. Wood that has been subjected to any of the following conditions:

- 6.1. *Ultimate deformation*;
- 6.2. *Deterioration*;
- 6.3. Damage from insects, rodents and other vermin;
- 6.4. Fire damage beyond charring;
- 6.5. Significant splits and checks;
- 6.6. Horizontal shear cracks;
- 6.7. Vertical shear cracks;
- 6.8. Inadequate support;
- 6.9. *Detached*, dislodged or failing connections; or
- 6.10. Excessive cutting and notching.

Exceptions:

- 1. When substantiated otherwise by an *approved* method.
- 2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

**SECTION 307
HANDRAILS AND GUARDRAILS**

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall not be less than

30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

**SECTION 308
RUBBISH AND GARBAGE**

308.1 Accumulation of rubbish or garbage. All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

308.3 Disposal of garbage. Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Garbage facilities. The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

**SECTION 309
PEST ELIMINATION**

309.1 Infestation. All structures shall be kept free from insect and rodent *infestation*. All structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

309.2 Owner. The *owner* of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

309.3 Single occupant. The *occupant* of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the *premises*.

309.4 Multiple occupancy. The *owner* of a structure containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for