

ORDINANCE NO. 17-E

AN ORDINANCE AMENDING CHAPTER 5 “BUILDINGS”, OF THE CITY OF ALVIN CODE OF ORDINANCES BY AMENDING THE DANGEROUS BUILDINGS ABATEMENT PROCESS AND DEFINITIONS; ADOPTING THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE; ADDING LOCAL AMENDMENTS TO THIS CODE; PROVIDING A PENALTY AS PROVIDED BY SECTION 1-5 OF THE CODE OF ORDINANCES; PROVIDING A SAVING AND SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND MAKING OTHER PROVISIONS RELATED THERETO.

WHEREAS, a municipality may require the vacation, relocation of occupants, securing, repair, removal, or demolition of certain buildings in accordance with Chapters 214 and 54 of the Local Government Code; and

WHEREAS, a municipality may also establish minimum standards for the use and occupancy of buildings in the municipality regardless of the date of their construction in accordance with Chapter 214 of the Local Government Code; and

WHEREAS, the City of Alvin, Texas (the “City”) previously adopted the 2009 edition of the International Property Maintenance Code that establishes minimum standards for the use and occupancy of buildings in the City regardless of the date of their construction; and

WHEREAS, the City desires to update these minimum standards by adopting the 2015 edition of the International Property Maintenance Code; and

WHEREAS, the City may from time to time identify buildings or buildings that constitute a danger to the public health, safety and welfare; and

WHEREAS, the City desires to clarify the standards and processes by which it may require the vacation, relocation of occupants, securing, repair, removal, or demolition of such dangerous buildings, **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS;

Section 1. That Section 5-5, “Same—Penalty for violation” of the City of Alvin, Texas Code of Ordinances (“City Code”), is hereby amended to read as follows:

Sec. 5-5. Penalty for violation.

“Any person violating any provision of this Chapter, including any provision of the codes with local amendments adopted by this Chapter, or failing to comply with any order of the Board or Stop Work Order issued by the Code Official shall be punished as prescribed by section 1-5 of this Code, in addition to any other enforcement action or remedy provided by law.”

Section 2. That Section 5-5.1, “Dangerous Buildings” of the City Code is hereby deleted in its entirety.

Section 3. That Section 5-41 of the City Code is hereby amended to read as follows:

“Sec. 5-41. - International Property Maintenance Code, 2015, adopted.

(a) The International Property Maintenance Code 2015 and all its appendices are hereby adopted as the property maintenance code of the city, an authentic copy of each which has been filed with the city clerk, are hereby adopted and made a part of this section, except as follows:

(1) Chapter 1 is amended to read as shown in Exhibit A to this ordinance, which is adopted by reference as if fully set out herein.

(2) In Section 304.14, Insect Screens, "from [date] to [date]" is deleted and replaced with "at all times."

(3) In Section 602.3, Heat Supply, "from [date] to [date]" is deleted and replaced with "at all times."

(4) In Section 602.4, Occupiable Work Spaces, "from [date] to [date]" is deleted and replaced with "at all times."

(b) A copy of such code is on file in the office of the city clerk. In the event of any conflict between the provisions of the housing code and the provisions of this Code of Ordinances, state law and city ordinances, rules and regulations, the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling.

(c) If a conflict arises between any provisions of the International Property Maintenance Code and any other applicable provisions of a city ordinance or code adopted thereby, the more restrictive provision(s) shall control.”

Section 4. **Open Meetings Act.** It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Ch. 551, Tex. Gov't Code*.

Section 5. **Conflicts.** If a provision of this Ordinance conflicts with any other requirement of an adopted code or other City ordinance, the most restrictive section shall control.

Section 6. **Repeal.** That this Ordinance repeals the above sections of the City’s Code of Ordinances to the extent that said sections are inconsistent or in conflict with this Ordinance, but not otherwise.

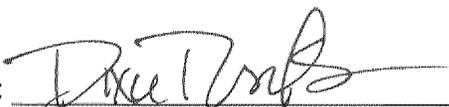
Section 7. **Severability.** That in the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any

part of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Alvin, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED AND APPROVED on first and final reading on the 16 day of February, 2017.

ATTEST:

CITY OF ALVIN, TEXAS:

By: 
Dixie Roberts, City Clerk

By: 
Paul A. Horn, Mayor

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PART 1 — SCOPE AND APPLICATION

SECTION 101 GENERAL

[A] 101.1 Title. These regulations shall be known as the *International Property Maintenance Code* of the City of Alvin, Texas (the "City"), which has adopted it, including any additions, deletions, amendments, or other requirement of the Code of Ordinances of the City when related to health and safety, hereinafter referred to as "this code."

[A] 101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, *owner's authorized agent*, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

[A] 101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

[A] 101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

[A] 102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code or a section of this code and another requirement of the City specify different requirements, the most restrictive shall govern, except in cases where this code references a more recent edition of the International Fire Code, International Building Code, International Plumbing Code, International Fuel Gas Code, National Electric Code, International Mechanical Code, or International Swimming Pool and Spa Code than the edition currently adopted by the City, in which case the standard of the currently adopted edition shall prevail.

[A] 102.1.1 Treatment of Apartment Complexes. For the purposes of this code, an apartment complex shall be

treated as a single structure when common areas fail to be maintained in compliance with this code. Common stairwells and walkways of each building may be treated as common areas for purposes of this code.

[A] 102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, *owner's authorized agent*, *operator* or *occupant* shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

[A] 102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code* or any other requirement of the City.

[A] 102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

[A] 102.5 Workmanship. Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

[A] 102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

[A] 102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2, subject to the limitation in Section 102.1 for cases where the City has adopted a less recent

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edition of a referenced standard. Where the City has not adopted a standard, the standard referenced shall prevail.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

[A] 102.7.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

[A] 102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

[A] 102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

[A] 102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

[A] 102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103

DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION CODE OFFICIAL, DEPUTIES, LIABILITY, AND FEES

[A] 103.1 Board of Appeals. The Building Board of Adjustments and Appeals of the City is hereby designated to hear appeals and hold public hearings in accordance with this code, hereinafter referred to as "board of appeals" or the "board".

[A] 103.2 Appointment. The *code official* shall be the Building Official, appointed by the City Manager of the City.

[A] 103.3 Deputies. In accordance with the prescribed procedures of the City and with the concurrence of the appointing authority, the *code official* may appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

[A] 103.4 Reserved.

[A] 103.4.1 Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful

discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

[A] 103.5 Fees. The fees for activities and services performed under this code shall be as provided by the adopted fee schedule of the City.

SECTION 104

DUTIES AND POWERS OF THE CODE OFFICIAL

[A] 104.1 General. The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

[A] 104.2 Inspections. The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

[A] 104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the *structure* or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such *structure* or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner*, *owner's authorized agent*, or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

[A] 104.4 Identification. The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

[A] 104.5 Notices and orders. The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

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[A] 104.6 Department records. The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

[A] 105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* authorized agent, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

[A] 105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons the alternative was not *approved*.

[A] 105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

[A] 105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

[A] 105.3.2 Test reports. Reports of tests shall be retained by the *code official* for the period required for retention of public records.

[A] 105.4 Used material and equipment. The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *code official*.

[A] 105.5 Approved materials and equipment. Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

[A] 105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 106 VIOLATIONS

[A] 106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

[A] 106.2 Notice of violation. The *code official* shall serve a notice of violation or order in accordance with Section 107; except, citations shall be issued and notice of citation provided in accordance with state law.

[A] 106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 or issued citation shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

[A] 106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] 106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the city attorney or other counsel retained by the City from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

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SECTION 107

NOTICES AND ORDERS

[A] 107.1 Notice to person responsible. Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the *owner* as specified in this code and identified in accordance with section 107.1.1.

[A] 107.1.1 Owner for purposes of this section. All notices shall be sent to the *owner* of the affected premises or structure, who shall be identified by a diligent search of the following records:

1. county real property records of the county in which the building is located;
2. appraisal district records of the appraisal district in which the building is located;
3. records of the secretary of state;
4. assumed name records of the county in which the building is located;
5. tax records of the municipality; and
6. utility records of the municipality.

[A] 107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

[A] 107.2.1 Additional requirements for notice of unsafe structure. In addition to the form prescribed in Section 107.2, notice of an *unsafe structure* shall include:

1. the date of the scheduled public hearing; or a copy of the board of appeals determination and order;
2. a statement that the owner will be required to submit at the hearing proof of the scope of any work that may be required to comply with this code and city ordinances and the time it will take to reasonably perform the work; and

3. a statement that the city may take the actions ordered if the owner does not complete those actions prior to the deadline imposed at the public hearing, which may be 30 days from the date of the public hearing.

[A] 107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified mail, return receipt requested, addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

[A] 107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

[A] 107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

[A] 107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108

UNSAFE STRUCTURES AND EQUIPMENT

[A] 108.1 General. When a structure or equipment is found by the *code official* to be unsafe, the *code official* may recommend the vacation, relocation of occupants, securing, repair, removal, or demolition of an *unsafe structure* or *premises* pursuant to the provisions of this code.

[A] 108.1.1 Unsafe structures. An *unsafe structure* is one that is found to be a hazard to the public health, safety, and welfare due to one or more of the following conditions:

1. the *structure* is dilapidated as defined by section 108.1.5, substandard as defined by section 108.1.4, or unfit for human habitation as defined by section 108.1.3;

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2. the *structure* is, regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

3. the *structure* is boarded up, fenced, or otherwise secured in any manner that constitutes a danger to the public even though secured from entry; or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection 2.

[A] 108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

[A] 108.1.3 Structure unfit for human occupancy. A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is ~~unsafe, unlawful or~~, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

[A] 108.1.4 Substandard structure. A *substandard structure* is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

[A] 108.1.5 Dilapidated structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.

4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.

7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be insanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

[A] 108.1.6 Procedure for Abatement of Unsafe Structures. If a structure has been identified as unsafe, the *code official* shall:

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1. schedule a public hearing with the *board of appeals* to determine whether the *structure* is *unsafe* and to order the *structure* vacated, secured, repaired, removed, or demolished by the owner and the occupants relocated within a reasonable time if such a determination is made;
2. send notice in accordance with section 107 that the *code official* has identified an *unsafe structure* on the *premises*, including the specific conditions that render the *structure unsafe* and the date of the scheduled public hearing;
3. file or cause to be filed a copy of the notice in the real property records of the county in which the *unsafe structure* is located;
4. verify and document the condition of the *unsafe structure* within 48 hours of the scheduled public hearing;
5. report the condition of the unsafe structure to the *board of appeals* at the public hearing and recommend the vacation, relocation of occupants, securing, repair, removal, or demolition of the *unsafe structure* within 30 days; provided, the *board of appeals* may allow the *owner* up to 90 days to repair, remove, or demolish the *unsafe structure*, or to submit at the hearing a detailed plan and time schedule for the work if the *owner* establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work;
6. send notice in accordance with section 107 of the board's determination and order within 10 days after the order is issued;
7. publish or cause to be published in a newspaper of general circulation in the city in which the *unsafe structure* is located a notice containing: the street address or legal description of the property; the date the public hearing was held; a brief statement indicating the results of the order; and instructions stating where a complete copy of the order may be obtained;
8. verify and document the condition of the unsafe structure following the date specified by the order;
9. take no action nor cause any action to be taken until 20 days has elapsed from the date of the order with no appeal filed in accordance with section 111.1; 30 days has elapsed from the date of the order with no appeal for court review filed in accordance with section 111.7; and the condition of the *unsafe structure* remains *unsafe*; provided, if an appeal has been filed in accordance with sections 111.1 or 111.7, the appeal shall stay all enforcement, other than emergency measures taken under section 109, until the appeal is heard; and
10. provided no appeal has been filed and the deadline for such appeal has elapsed, timely commence the vacation, relocation of occupants, securing, repair,

removal, or demolition of the *unsafe structure* pursuant to the order of the board of appeals and document all actions taken.

[A] 108.2 Securing of vacant structures. If the *unsafe structure* is vacant and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up and secured so as not to be an attractive nuisance. Upon failure of the *owner* or owner's authorized agent to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource**process for securing

[A] 108.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection or prevent connection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency or where necessary to enforce this code or where such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* or owner's authorized agent and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, owner's authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

[A] 108.3 Notice and Placarding. Whenever the *code official* has identified as unsafe a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the unsafe equipment. The notice shall be in the form prescribed in Section 107.2

[A] 108.4 Placarding. The *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Unsafe", it shall be unlawful to occupy this building" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

[A] 108.4.1 Placard removal. The *code official* shall remove the placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of

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the *code official* shall be subject to the penalties provided by this code.

[A] 108.5 Vacating of Structure. Any occupied structure found to be unsafe and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner*, *owner's* authorized agent or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

[A] 108.6 Abatement methods. The *owner*, *owner's* authorized agent *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

[A] 108.7 Record. The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

[A] 109.1 Imminent danger. When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official*, after approval of the governing body of the City, is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its *Occupancy* Has Been Prohibited by the *Code Official*." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

[A] 109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* may order the necessary work to be done to temporarily secure the structure, including the boarding up of openings, to render such structure temporarily safe and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency; provided the structure is unoccupied or is occupied only by persons who do not have a right of possession to the building. Before the 11th day after the

date the structure is secured, notice shall be provided in accordance with section 107

[A] 109.3 Closing streets. When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

[A] 109.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

[A] 109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* or *owner's* authorized agent of the *premises* where the unsafe structure is or was located for the recovery of such costs.

[A] 109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon written request directed to the appeals board within 30 days after the date the City secures the building, be afforded a hearing as described in this code within 20 days after the date the request is filed.

SECTION 110 DEMOLITION

[A] 110.1 General. The *code official* shall order the *owner* or *owner's* authorized agent of any *premises* upon which is located any structure, which in the *code official's* or *owner's* authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* or *owner's* authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

[A] 110.2 Notices and orders. Notices and orders shall comply with Section 107.

[A] 110.3 Failure to comply. If the *owner* of a *premises* or *owner's* authorized agent fails to comply with a demolition order within the time prescribed, the *code official*, after approval of the governing body of the City, shall cause the structure to be demolished and removed, either through an

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available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

[A] 110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111 MEANS OF APPEAL AND PUBLIC HEARINGS

[A] 111.1 Application for appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served, except as otherwise provided by section 109 for appeals of Emergency Repairs or other action taken under section 109. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. An application for appeal under section 111.1 is an administrative remedy and shall not preclude an appeal for court review of an order by the board of appeals in accordance with section 111.7.

[A] 111.2 Reserved.

[A] 111.3 Notice of meeting. The jurisdiction City may, but is not required to, hold additional public hearings as part of the procedure for the abatement of unsafe structures prescribed in section 108.1.6. Notice of such additional public hearings shall be sent to the *owner* in accordance with section 107.

[A] 111.4 Open hearing. Hearings shall be subject to the Open Meetings Act.

[A] 111.4.1 Procedure. The board shall make available to the public through the secretary procedures, if any, under which a hearing will be conducted. The procedures shall

not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

[A] 111.5 Reserved.

[A] 111.6 Board decision. The board shall modify or reverse the decision of the *code official* only by a concurring vote of a majority of the total number of appointed board members.

[A] 111.6.2 Administration. The *code official* shall take immediate action in accordance with the decision of the board.

[A] 111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law. Appeals under this section must be filed in the district court within the county where the unsafe structure is located within 30 days of the date the order is issued by the board of appeals.

[A] 111.8 Stays of enforcement. Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the board.

SECTION 112 STOP WORK ORDER

[A] 112.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

[A] 112.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

[A] 112.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

[A] 112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$2,000.00 dollars per violation.