

# City of Laingsburg Property Maintenance Code



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## City of Laingsburg Property Maintenance Code

### Section 1 – Scope

#### 1.1- Title

These regulations shall be known as the Property Maintenance Code of the City of Laingsburg, hereinafter referred to as “this code”.

#### 1.2- 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, an owner’s authorized agent, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement, and penalties.

#### 1.3- Purpose

The purpose of this code is to establish minimum requirements to provide a reasonable level of health, safety, property protection, and general welfare insofar as they are affected by the continued maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a reasonable minimum level of health, safety, and general welfare as required herein.

#### 1.4- 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 2 – Applicability**

### 2.1- General

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between the 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 specify different requirements, the most restrictive shall govern.

### 2.2- Maintenance

Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises were constructed, altered or repaired shall be maintained in good working order. An owner, authorized agent, operator or occupant shall not 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.

### 2.3- 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 City of Laingsburg Zoning Ordinance.

## 2.4- 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, or unsanitary.

## 2.5- 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.

## 2.6- Structural analysis

Where structural analysis is used to determine if an unsafe structural condition exists, the analysis shall be permitted to use nominal strengths, nominal loads, load effects, required strengths, and limit states in accordance with the requirements under which the structure was constructed or in accordance with any subsequent requirement.

## 2.7 - Requirements not covered by this 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.

## **Section 3 – General Requirements**

### 3.1 - General Scope

The provisions of this section shall govern the minimum conditions and the responsibilities of people for the maintenance of structures, equipment, and exterior property.

### 3.2 - Severability

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 that are not in a sanitary and safe condition and that 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 they occupy and control.

### 3.3 - Vacant structures and land

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 public health or safety.

### 3.4 - Grading and drainage

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. Premises shall also be graded and maintained to prevent the accumulation of stagnant water upon any adjacent property.

### 3.5 - Sidewalks and driveways

Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions. If a public sidewalk is in disrepair the owner of the premises may be required to cover up to half of the cost of replacement.

### 3.6 - Rodent harborage

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 that will not be injurious to human health. After *pest* elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

### 3.7 - Exhaust vents

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

### 3.8- Accessory structures

Accessory structures, including but not limited to, detached garages, sheds (including portable sheds), fences, and walls (including retaining walls), should be maintained, structurally sound and in good repair.

### 3.9 – Motor Vehicles

For the purposes of this Code, the term *motor vehicle* shall include, but is not limited to automobiles, trucks, motorcycles, trailers, campers, recreational vehicles (RVs), boats, or any other conveyance that is motorized and/or designed to be towed on a public roadway. Motor vehicles and/or vehicles shall be maintained in an operable state with up-to-date vehicle registration with the State of Michigan. Motor vehicles shall be stored on a driveway or within an accessory structure. Parking shall not be permitted in any area that restricts pedestrian access to a public sidewalk, including any portion of a motor vehicle extending over a sidewalk and approaching the street. Inoperable motor vehicles shall not be stored on-site except within a completely enclosed accessory structure, including an attached garage.

### 3.10- Defacement of property

A person shall not 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.

### 3.11- Swimming pools generally

Swimming pools should be maintained in a clean and sanitary condition and in good repair.

### 3.12- Swimming pool enclosures

Private swimming pools, hot tubs, and spas, containing water more than 24 inches in depth shall be surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Pools that are installed above ground level that maintain a sidewall of 48 inches or taller, must enclose ladders providing access to the pool with a fence or barrier not less than 48 inches 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 above the bottom of the gate, the release mechanism shall be located on the poolside 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 from the gatepost. An existing pool enclosure shall not be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

### 3.13- 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 not less than 4 inches in height with a minimum stroke width of 0.5 inch.

### 3.14- Exterior structures generally

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

### 3.15-Exterior structures, unsafe conditions

The following conditions shall be determined to be 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:

- A. The nominal strength of any structural member is exceeded by nominal loads, the load effects, or the required strength.
- B. 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.
- C. Structures or components thereof that have reached their limit state.
- D. 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.
- E. Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects.
- F. 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.
- G. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks, breaks, and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
- H. 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.
- I. 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.
- J. 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.
- K. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes, and exhaust ducts that are not properly

anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

- L. Exterior stairs, decks, porches, balconies, and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored, or are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
- M. 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.

### 3.16 - Exterior structures, protective treatment

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. 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 watertight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and 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.

### 3.17– Interior structures, generally

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 that 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.

### 3.18– Interior structures, unsafe conditions

The following conditions shall be determined to be 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:

- A. The nominal strength of any structural member is exceeded by nominal loads, the load effects, or the required strength.
- B. 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.
- C. Structures or components thereof that have reached their limit state.
- D. Structural members are incapable of supporting nominal loads and load effects.
- E. Stairs, landings, balconies, and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
- F. 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.

### 3.19- Component serviceability, generally

The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

### 3.20- Component serviceability, unsafe conditions

Where any of the following conditions cause the component or system to be beyond its limit state, the component or system 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:

- G. Soils that have been subjected to any of the following conditions:
  - i. Collapse of footing or foundation system.

- ii. Damage to footing, foundation, concrete, or other structural element due to soil expansion.
- iii. Adverse effects to the design strength of footing, foundation, concrete, or other structural element due to a chemical reaction from the soil.
- iv. Inadequate soil as determined by a geotechnical investigation.
- v. Where the allowable bearing capacity of the soil is in doubt.
- vi. Adverse effects to the footing, foundation, concrete, or another structural element due to the groundwater table.

H. Concrete that has been subjected to any of the following conditions:

- i. Deterioration.
- ii. Ultimate deformation.
- iii. Fractures.
- iv. Fissures.
- v. Spalling.
- vi. Exposed reinforcement.
- vii. Detached, dislodged, or failing connections.

I. Aluminum that has been subjected to any of the following conditions:

- i. Deterioration.
- ii. Ultimate deformation.
- iii. Elastic deformation.
- iv. Corrosion.
- v. Stress or strain cracks.
- vi. Joint fatigue.
- vii. Detached, dislodged, or failing connections.

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

- i. Deterioration.
- ii. Ultimate deformation.
- iii. Fractures in masonry or mortar joints.
- iv. Fissures in masonry or mortar joints.

- v. Spalling.
  - vi. Exposed reinforcement.
  - vii. Detached, dislodged, or failing connections.
- K. Steel that has been subjected to any of the following conditions:
- i. Deterioration.
  - ii. Elastic deformation
  - iii. Ultimate deformation.
  - iv. Metal fatigue.
  - v. Detached, dislodged, or failing connections.
- L. Wood that has been subjected to any of the following conditions:
- i. Ultimate deformation.
  - ii. Deterioration.
  - iii. Damage from insects, rodents, and other vermin.
  - iv. Fire damage beyond charring.
  - v. Significant splits and checks.
  - vi. Horizontal shear cracks.
  - vii. Vertical shear cracks.
  - viii. Inadequate support.
  - ix. Detached, dislodged, or failing connections.
  - x. Excessive cutting and notching.

### 3.21- Rubbish and Garbage

Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

A. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

B. The occupant of every premises shall maintain 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.

C. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises. Temporary storage on the premises may be permitted on a temporary basis of no longer than 15 calendar days. However, the owner or occupant must first remove the doors of the refrigerator or similar equipment.

D. Any residential use which is not a multi-family dwelling is prohibited from utilizing a commercial dumpster for rubbish disposal.

E. A commercial dumpster utilized for residential land uses, less than multi-family residences, shall be permitted on a temporary basis of no more than 30 days

### 3-22 – Pest elimination

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

- A. **Owner.** The owner of a structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.
- B. **Single occupant.** The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.
- C. **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 pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.
- D. **Exception.** Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

### 3.24– Animal carcasses

All animal carcasses, or parts thereof, harvested for butchering, processing, or other purpose shall be contained within a completely enclosed structure and not visible from the public right- of-way.

Premises shall be kept in a sanitary condition free of rotting animal carcasses and parts thereof.

Keeping animal carcasses or parts thereof which generates a foul odor detectible at the public right-of-way or an adjacent property line, shall be prohibited.

### 3.7 –Outdoor Storage Inoperable lawnmowers

Outdoor storage of appliances (including lawnmowers), furniture, or building materials, is prohibited except when the material is properly covered and screened from view. Furniture that is not intended or designed for outdoor use shall not be placed outdoors or on exterior balconies, porches, decks, landings, or other areas exposed to the weather.

## **Section 4 – Administration and Enforcement**

### 4.1 - Inspections authorized

The standards of this code are to be enforced by inspections of buildings, accessory structures, and any property subject to any of the terms of this code.

### 4.2 - Enforcement Process

The city may, but shall not be required to, bring a violation of the standards established in this chapter to the attention of the property owner or other responsible person by issuing a notice of violation or by any other lawful means.

### 4.3 - Violations

It shall be unlawful for a person, firm, corporation, or entity to be in conflict with or in violation of any of the provisions of this chapter.

### 4.4 - Notice

The City Police, Code Official, other designee of the Code Official, or other duly appointed representative shall serve a written notice of violation, which shall include identification of the property, a statement of the violation, and why the notice is being issued, an order of correction

allowing time to make the repairs, and improvements consistent with Section 4.5 of this code, the right to appeal the violation, and a statement indicating that the city may abate violation, charge such costs to the property owner, and/or file a lien against the property. The notice shall be served by personal delivery to the owner or sent first-class mail to the last known address of the owner. A copy of the notice shall also be posted in a conspicuous place in or about the property.

#### 4.5 - Time to correct violations

- A. Any notice of violation shall provide a specified time for achieving compliance in relation to the seriousness of the violation.
- B. If a notice of violation is issued, the following time limits shall be used:
  - Not more than 24 hours for an emergency.
  - Not more than ten days for correcting hazardous conditions; and
  - Not more than 120 days for all other violations, except as stated otherwise below
- C. The Code Official or other designee of the Code Official may approve an extension of time to correct a violation provided in a written notice when there are documented extenuating circumstances beyond the control of the responsible person and/or where the responsible person has made a substantial documented effort to correct violations. The extension shall not exceed a period of 120 days.

#### 4.6 – Imminent danger orders

If the Code Official or other designee of the Code Official determines that a condition exists or is likely to exist which is an imminent danger, the City shall immediately attempt to verbally inform the responsible person and all occupants of the building of the nature of the condition. The City shall immediately attempt to give verbal notice to the responsible person to correct the condition. Such an order shall be effective immediately. A written notice of violation called for by this code shall be prepared and mailed and/or personally served to the responsible person as soon as practicable after the verbal notice herein referred to has been attempted. If notice is attempted to be served in good faith but cannot be completed prior to having to take action necessary to abate an emergency condition, such notice shall be posted upon the subject property in a prominent location. Failure to comply with an emergency notice or order is a violation of this code.

#### 4.7 - Abatement of imminent danger

If the responsible person cannot be contacted or refuses or fails to correct an imminent danger condition within the time ordered, the Code Official or a representative of the Code Official may authorize corrective actions to abate the imminent danger. The cost of abatement shall be billed to the owner as a personal debt which, if unpaid, may be assessed as a lien upon the property involved, may also be placed on the tax roll for the property, and the city may seek full reimbursement of the abatement costs through a nuisance or other appropriate action in a court of competent jurisdiction.

#### 4.8 - Authorization to condemn

It shall be unlawful for any person to occupy or any person other than the owner to enter any building or accessory building to be condemned as unfit for human occupancy or entry for any of the following reasons or conditions:

- A. An imminent danger is present.
- B. A hazardous condition cited in a notice of violation has not been corrected; and/or
- C. A notice of violation, which contains an order to repair or demolish, has been issued to the owner.

#### 4.9 - Emergency entry authorized

When an imminent danger is believed to exist within a property, building, or accessory building subject to this code, the City shall have the right to enter immediately and at any time without a warrant or without requesting permission. Entry must be for the sole purpose of public safety and determining that an emergency exists or to abate an emergency condition known to exist

#### 4.10 – Change in ownership

- A. An owner or responsible person of a property who has received a notice regarding a violation of a provision of this chapter shall notify the city by writing the Code Official or

other designee of the Code Official within ten (10) days of transferring ownership of the cited property to another person or entity.

- B. The notice to the City shall include the name, address, and telephone number of the new owner and the effective date of the transfer of ownership.
- C. The City shall issue a new notice of violation to any new person or entity assuming the ownership or the status of responsible person for any property which has been cited in a notice of violation.
- D. An owner or responsible person who has failed to comply with a notice of violation shall remain responsible for any violations cited in a notice of violation and shall not be relieved of the responsibility of having violated any provision of this chapter by transferring ownership or responsible person status.

#### 4.10- Removal of posted signs or notices

No person shall remove, damage, deface, interfere with, move, or conceal any notice or sign posted in accordance with the provision of this code without first obtaining permission of the City. Unauthorized removal of any notice or sign shall be considered a separate violation of this code. Signs improperly removed are subject to penalties as outlined under Section 4.12.

#### 4.11- Penalty

- A. **Penalties and sentencing.** Upon conviction for violation of any provision of this chapter, the court shall sentence the defendant to pay a fine not less than \$100, plus court costs. The court shall, when justice so requires, from requiring a defendant to bring property subject to this chapter into compliance with the terms herein and to prevent further violations.
- B. **Fines.** Fines shall reflect the seriousness of each offense as well as the history of the person convicted. Fines shall not be less than the following amounts for each separate offense:

At least \$150, plus court costs, for each failure to comply with an emergency order or correct a hazardous condition; and

At least \$100, plus court costs, for each failure to comply with any other provision of this chapter or any order or notice issued in accordance with the provisions of this chapter.

- C. **City costs.** Upon conviction for violation of any provision of this code, the court shall order the defendant to reimburse the city for all of the costs of enforcement of this chapter attributable to the violations for which the defendant was convicted, including but not limited to the costs of inspection, prosecution, and administration. If such a condition is not imposed, the City may file a civil action against the defendant and may, upon proof of the defendant's conviction, recover all of the costs referred to above.
- D. **Fines doubled.** In cases of recurrent violations, which shall be defined as any cited violation not remediated or cured within 15 days after the initial citation is issued, any applicable fine will be doubled.
- E. **Signs.** A \$100 fine will be issued for each posted sign or notice improperly removed, damaged, defaced, interfered with, moved, or concealed.

## **Section 5 – Appeals**

### 5.1 - Appeal authorized

Except as otherwise provided in this chapter, any person issued a notice by the City in the course of enforcement of the provisions of this chapter may appeal the decision or interpretation made by the City to the City's Zoning Board of Appeals. All appeals shall be filed, heard, and decided in accordance with the provisions of this chapter.

### 5.2 - Time period for filing an appeal

An appeal must be filed within 21 days of the date of any order or notice being appealed. However, if an order requires the correction of a cited violation within a shorter period of time, the appeal must be made within such shorter period.

### 5.3 - Effect of appeal on correction time limits

A responsible person who has been ordered to correct a violation within a specified period of time shall not be held accountable for any time which elapses between the time of filing an appeal and the time a decision is made.

### 5.4 - Procedure for filing an appeal

Any person wishing to make an appeal must file a written appeal form setting forth the order or ruling being appealed. The appellant must file the written form with the city at a clerk's office. The city will send a notice to the appellant regarding the date the appeal will be heard by the Zoning Board of Appeals ("ZBA"). Notice of the hearing date will be by regular mail sent to the address stated on the written appeal form. Any person requesting a written appeal form shall be notified of the standards for ZBA decisions.

### 5.5 - Appeal fee

An appeal fee established by resolution of the City Council shall be submitted with any claim of appeal. The ZBA may also authorize the return of a fee to an appellant if it determines that an error by the city caused an unnecessary appeal to be submitted.

### 5.6 - Procedures prior to appellate hearing

Prior to an appeal hearing, the following procedures shall take place:

- A. The City shall forward copies of the claim of appeal and a copy of the notice or order being appealed to members of the ZBA;
- B. The Code Official or other designee of the Code Official may prepare a presentation of the property subject to appeal. This presentation may include, as elements, the exterior view of the dwelling, from all sides, the exterior view of adjoining properties, specific illustration of the issue(s) of the appeal, and interior illustration as needed to make a determination;

The city shall notify the owner of the premises that is the subject of the appeal; and

- C. Failure of the owner or other responsible person to arrange access to any portion of the property where a cited violation is located and which is not clearly visible from a public street shall constitute grounds for denial of an appeal.

#### 5.7 - Hearings on appeals

All hearings on appeals shall take place at a regular or special meeting of the ZBA. The City shall have a minimum of 15 days after a claim of appeal is filed to issue the required notices. The appeal shall be heard at the first regularly scheduled meeting of the ZBA following the 15-day period for which the hearing is scheduled, provided that a quorum is present. When a quorum is not present, the Chair or other presiding member of the ZBA shall reschedule the

meeting, and the appeal shall be heard at the rescheduled meeting. A hearing may be held at a special meeting by a majority vote of the ZBA.

#### 5.8 - Hearing procedures

At any hearing of the ZBA arising out of this chapter, the following procedures shall be followed:

- A. Testimony of the appellant, the City, and any witnesses shall be heard. A summary or minutes shall be recorded in a manner determined by the City;
- B. The appellant or authorized agent of the appellant, and the Code Official or designee of the Code Official shall be present;
- C. At least three members of the ZBA shall be present at a hearing and shall constitute a quorum; and
- D. Summary minutes shall be prepared to show all motions and actions of the Board.

#### 5.9 - Decision by the ZBA.

After all evidence and testimony has been presented, the ZBA shall affirm, modify or reverse the notice being appealed. Any decision of the ZBA modifying or reversing a notice by the city shall require the concurring vote of three members.

#### 5.10- Standards for Appeal Board decisions

A decision by the ZBA shall include the reasons for the decision in the language of the decision. Any decision not complying with this code shall be void. Any decision to reverse or modify any order or ruling of the City shall:

- A. Include any necessary special conditions to carry out the intent of the provisions being appealed;
- B. Determine that the decision is necessary to avoid causing undue hardship to the appellant which is not caused to others to whom the same provision is applied;
- C. Determine that the order or ruling was an incorrect interpretation of a standard of this chapter; or
- D. Determine that an alternative proposed solution by an appellant meets the minimum standards for property maintenance as expressed in this code.

#### 5.11- Appeals prohibited

An emergency order shall not be appealed because of imminent danger calling for immediate action. A ruling, decision, opinion, or action of the City Attorney cannot be appealed to the ZBA.

#### 5.12- Conflicts of interest

No member of the ZBA shall speak or vote on any appeal in which the member has any direct personal or financial interest nor shall any member participate in any matter where participation is prohibited by the City Charter or state law.

#### 5.13- Summary of rulings

The ZBA shall report a summary of its findings and rulings to the City Council annually on any appeal arising out of this chapter. The report shall include a summary of recurrent appeals or recurrent problems, along with resultant recommendations for modifications to this chapter.

#### 5.14- Compliance with Zoning Board of Appeals decisions

It shall be a violation of this chapter for a responsible person to fail to comply with special conditions which are a part of a ZBA decision modifying or reversing an order or ruling of the city.

### **Section 6 – Definitions**

**ANCHORED.** Secured in a manner that provides positive connection.

**APPROVED.** Acceptable to the code official.

**BASEMENT.** That portion of a building that is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

**CODE OFFICIAL.** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

**CONDEMN.** To adjudge unfit for occupancy.

**COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS.** The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for

recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a code official, the governing body or board of appeals.

**DETACHED.** When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

**DETERIORATION.** To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.

**EMERGENCY ESCAPE AND RESCUE OPENING.** An operable exterior window, door or other similar device that provides for a means of escape and access for rescue in the event of an emergency.

**EQUIPMENT SUPPORT.** Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

**EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating that does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**IMMINENT DANGER.** A condition that could cause serious or life-threatening injury or death at any time.

**INFESTATION.** The presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.

**INOPERABLE MOTOR VEHICLE.** A vehicle that cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**LABELED.** Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, approved agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

**LET FOR OCCUPANCY or LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**NEGLECT.** The lack of proper maintenance for a building or structure.

**OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR.** Any person who has charge, care or control of a structure or premises that is let or offered for occupancy.

**OWNER.** Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PERSON.** An individual, corporation, partnership or any other group acting as a unit.

**PEST ELIMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

**PREMISES.** A lot, plot or parcel of land, easement or public way, including any structures thereon.

**PUBLIC WAY.** Any street, alley or other parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated or otherwise permanently appropriated to the public for public use; and has a clear width and height of not less than 10 feet (3048 mm).

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**STRUCTURE.** That which is built or constructed.

**TENANT.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**ULTIMATE DEFORMATION.** The deformation at which failure occurs and that shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

**VEHICLE.** Any private passenger motor vehicle, including passenger vans, cars, trucks and minivans that are primarily intended for the transport of persons; recreational vehicles, or motor homes; motorcycles; four wheelers or quads; travel trailers; etc.

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**YARD.** An open space on the same lot with a structure.