

ORDINANCE NO. 23-005

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE CODE OF THE CITY OF GALVESTON, AS AMENDED, CHAPTER 18, "PROPERTY MAINTENANCE CODE", IN ITS ENTIRETY; ADOPTING THE 2021 "INTERNATIONAL PROPERTY MAINTENANCE CODE", WITH LOCAL AMENDMENTS; TO AMEND REGULATIONS, STANDARDS, AND DEFINITIONS AS APPLICABLE; TO MAKE CLARIFICATIONS, RENAME, RENUMBER AND REARRANGE THE CHAPTER AS APPLICABLE; PROVIDING FOR PENALTIES AS APPLICABLE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Galveston City Council seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, staff has reviewed Chapter 18, the Property Maintenance Code of the City of Galveston. Staff has made recommendations in order to update regulations, definitions and make modifications, as applicable, to the Chapter in furtherance of promoting the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, staff recommends adding dangerous and substandard building code provisions and regulations previously located in Chapter 10, as the applicable regulations are better placed in Chapter 18, the "Property Maintenance Code" of the City of Galveston; and,

WHEREAS, the property maintenance code required extensive formatting and revisions and replacing the chapter in its entirety will allow for proper codification, consistency and clarity; and,

WHEREAS, staff desires to keep the City of Galveston current with the most recent codes pertaining to minimum requirements for property maintenance and recommends adopting the "2021 International Property Maintenance Code", with local amendments; and,

WHEREAS, on December 6, 2022, Staff presented the proposed code updates and amendments to the Building Board of Adjustments and Appeals. The Building Board of Adjustments and Appeals, is comprised of local builders, architects, engineers, electrical, mechanical and plumbing contractors, formed with the intent to have local input into the permit process, as well as, review potential amendments to regulatory codes; and,

WHEREAS, on December 6, 2022, the Building Board of Adjustments and Appeals, recommended approval of the request; and,

WHEREAS, the City Council deems it in the public's interest to amend Chapter 18 "Property Maintenance Code, of "The Code of The City of Galveston 1982, as amended," in its entirety, as provided below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 18 "Property Maintenance Code" of "The Code of The City of Galveston 1982," is amended in its entirety to provide as follows:

ARTICLE I. - PROPERTY MAINTENANCE CODE

Sec. 18-1. - Organization – Authority.

- (a) Authority. This Chapter is adopted pursuant to the authority provided by Chapters 54 and 214 of the Local Government Code, and any successor statutes.
- (b) The City Marshal's Office shall implement and enforce this Chapter, and may establish such rules, regulations, or procedures, not inconsistent with this Chapter, the Charter, the Code of the City of Galveston or the laws of the state.
- (c) The Marshal's Office is subject to all applicable City Charter, Codes of the City of Galveston, and personnel rules and regulations pertaining to jurisdiction and employment. No provision contained in the 2021 IMPC governing the employment, staffing, hiring, termination, or discipline of an official or employee shall apply. Furthermore, the Property Maintenance Code shall not govern the appointment, liability, and legal defense of any officer or employee.

Sec. 18-2. - Adopted. International Property Maintenance Code.

There is hereby adopted by the City Council to provide standards regulating the erection, construction, enlargement, alteration, repair, moving, demolition, conversion, occupancy, equipment, use, area and maintenance of all buildings or structures in the city, the 2021 Edition of the International Property Maintenance Code (2021 IPMC), published by the International Code Council, save and except such portions as are hereinafter amended. The 2021 International Property Maintenance Code, as adopted and amended, is on file in the office of the City Secretary, the Marshal's Office and the Building Official, and is incorporated herein to the same extent as though it were set out at length herein.

Sec. 18-3. - Local Amendments.

The 2021 International Property Maintenance Code (hereafter the 2021 IPMC) is hereby amended by the City of Galveston Local Amendments" to the extent set forth in **SECTION 3** herein.

Provisions in the 2021 IPMC appendices shall not apply unless specifically adopted.

Sec. 18 -4. - Definitions.

The following words or phrases when used herein shall have the meanings ascribed to them in this chapter.

Abandoned building - A vacant building that has taxes in arrears for a period of time exceeding three hundred sixty-five (365) days; and has either water or electricity disconnected in excess of forty-five (45) days.

Boarded property - A structure or building that has one (1) or more openings boarded so as to prevent adequate light and ventilation to the premises and to prevent entry by unauthorized persons.

Brush - Shrubs, bushes, small trees or other vegetation of a species that does not grow into a forest.

Building - Same meaning as structure.

Building Official - As used in this Article, shall mean the Executive Director of Emergency Management and Enforcement or Designee.

Carrion - The dead flesh of decaying animal matter.

Department - Executive Director of Emergency Management and Enforcement or Marshal's Office or as may otherwise be designated by the City Manager.

Director - Executive Director of Emergency Management and Enforcement or designee. Director of the development services department, or designee.

Filth - Any substance or matter which is, unsanitary squalid, unclean, or foul.

Impure or unwholesome matter - Any condition or substance which may, tends to, or is liable to be detrimental or injurious to health, life or safety.

Nuisance - Any act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others; or
- (2) Offends decency; or
- (3) Is offensive to the senses; or
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Objectionable, unsightly, or unsanitary matter - All uncultivated vegetable growth, objects and matter not included within the meaning of the other terms as herein used which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition for property within the general locality where the same is situated. This phrase shall also include any species of rag weed or other vegetable growth which may tend to be unhealthy to individuals residing within the general locality where such growth is situated.

Occupied - One (1) or more persons lawfully conducting business or residing in a building as the legal or equitable owner, operator, lessee or invitee.

Owner - Any person, agent, operator, firm or corporation having a 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.

Premises - The whole of the area owned by or under the control of any person, and the term shall include the area between the rear property line and the middle of the alley in instances where the rear of any such property abuts an alley and shall extend beyond the property line of any such lot or parcel of real estate to the curb line of adjacent street where a curb line has been established.

Property - Includes residential and commercial buildings or structures.

Rubbish. Non-putrescible solid waste consisting of both combustible and noncombustible waste, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Secured - means that all accessible means of ingress and egress to the vacant structure, including, but not limited to all exterior doorways and windows are locked so as to prevent unauthorized entry by vagrants and criminals or an attractive nuisance to children.

Stagnant water - A pool, puddle, or body of water which is motionless, not flowing or not running in a current or stream

Structure - Any building (i.e. construction, assembly, composition, arrangement) which is built for the support, shelter or enclosure or partial enclosure of persons, animal, chattel or moveable property of any kind.

Temporarily secured - means that all accessible means of ingress and egress to the vacant structure, including, but not limited to all exterior doorways and windows are covered with plywood which has been nailed or bolted in place so as to prevent unauthorized entry by vagrants and criminals or an attractive nuisance to children.

Vacant building - is an improved lot or parcel of real property with at least one (1) building or structure that is not currently Used or Occupied for a period in excess of forty-five (45) days;

Weeds - Except as provided herein, all wild growth of noxious grass or undergrowth, or all rank and uncultivated vegetable growth or matter which has grown to more than nine (9) inches in height, or which, regardless of height, is liable to become an unwholesome, decaying mass or a harboring place for mosquitoes or vermin.

Sec. 18-5. - Nuisance prohibited.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions, as described but not limited to the below, are hereby declared to be and constitute a nuisance.

- (1) Weeds, brush and other rank vegetation, except as permitted pursuant to a current and valid city wild flower permit;
- (2) Accumulation of filth, rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things;
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin;
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- (5) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench;
- (6) Any carrion;
- (7) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances;
- (8) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;
- (9) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;
- (10) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

Sec. 18-6. - Containers with air tight snap lock, magnetic seal or similar lock device requiring immediate abatement.

It shall be unlawful for any person to place, or allow to be placed, outside of any building or dwelling an abandoned, unattended, or discarded refrigerator, freezer, or any other container that has an airtight snap lock, or other locking device; or that has a magnetic seal-type door without first removing the lock or doors from the refrigerator, freezer, or similar container. Such a condition is considered an immediate danger to the health, life or safety of any person, and may be immediately abated without notice.

- (1) A person served notice by the city to correct the violation, shall immediately remove the refrigerator, freezer, or other similar container, or shall immediately remove the doors.

- (2) Should a person fail to immediately remove the refrigerator, freezer, or other container, or remove the doors, the city shall abate the nuisance as provided in the city code or state law
- (3) In the event a person is not served notice prior to the city correcting the violation, the city shall give notice to the property owner in the manner required by this section not later than the tenth day after the city corrects.

Sec. 18-7. - Wildflower exception.

All property owners or property owner designees shall apply for a wildflower exception permit each year in which a wildflower exception is requested. A wildflower permit application shall be submitted by January 31 of each year and shall be valid for the corresponding calendar year.

The application for wildflower permit shall include the following:

- (1) A detailed wildflower management plan to:
 - a. Mow and maintain a 36-inch swath or buffer, adjacent to other privately and publicly owned property, including rights-of-way, that complies with the current height of the city code pertaining to weeds;
 - b. Mow and maintain a 36-inch swath or buffer around the perimeter of the structure(s);
 - c. Mow and maintain access for utility service providers to their respective meters or outside the house hookups (water meter, phone jack, electric meter, gas meter and/or tanks, cable box) and postal service (mailbox);
 - d. Mow and maintain access to the main entrance of the house that currently complies with the current height of grass ordinance for emergency responders (fire department, law enforcement, and emergency medical personnel);
 - e. Maintain the property free of trash, lumber, cars, boats, and all other in-organic items;
 - f. Mow the herbaceous layer annually
- (2) The applicant shall exhibit or conspicuously display (as in a placard) the wildflower permit that demonstrates the property has been granted a wildflower permit.
- (3) The wildflower permit, as provided by the city, will display the permit/application number and display the designated mowing month.

ARTICLE II. - DANGEROUS AND SUBSTANDARD BUILDING CODE

This Article establishes the minimum requirements and standards for the continued use and occupancy of all residential and commercial buildings and is necessary to protect health, life and property, and to preserve the good government, order, and security of the City of Galveston and its inhabitants.

Sec. 18 - 8. - Substandard Building.

A. Any building or structure characterized by the following defects or conditions where such condition or defect constitutes a hazard to the safety, health or welfare of the public or its occupants, and,

- (1) when it is unsafe, unsanitary, or unfit for human habitation; or**
- (2) when there has been inadequate maintenance, deterioration and dilapidation; or**
- (3) constitutes a fire hazard or other hazard dangerous to human life; or**
- (4) when boarded, fenced or otherwise secured in any manner if the means used to secure the building or structure are inadequate to prevent unauthorized entry or use by vagrants or other uninvited persons as a place of harborage, or to prevent entry or use by children, or**
- (5) Is not maintained in compliance with city codes or state law; or**
- (6) Is only partially completed and is not fit for human occupancy; or**
- (7) Provides a location for vagrancy, unauthorized entry, or other criminal activity or is an attractive nuisance; or**
- (8) Has been substantially damaged, without evidence of repair or maintenance in excess of ninety (90) days.**

B. The following may apply to any building or structure not in conformance with this section herein:

- (1) Structure: All structural members and foundation shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.**
- (2) Exterior Walls: Exterior walls shall be kept in good condition and shall be free from holes, breaks, and loose or rotting materials.**
- (3) Roof and drainage: The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, and securely attached to the building.**
- (4) Decorative Features: Cornices, belt courses, corbels, applications, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.**
- (5) Overhang Extensions and Awnings: All overhang extensions including, but not limited to canopies, marquees, signs, awnings, and fire escapes shall be maintained in good repair and be properly anchored and supported as to be kept in a sound and safe condition.**
- (6) Stairways, decks, porches and balconies: Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained**

structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(7) **Chimneys and Towers:** Chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair.

(8) **Handrails and Guards:** Every exterior handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(9) **Windows and Doors:** All broken or missing windows shall be secured in a manner so as to prevent unauthorized entry. All broken or missing doors shall be secured to prevent unauthorized entry.

Sec. 18 - 9. - Dangerous Building.

A. Any building or structure which has defects or conditions, where such condition or defect, as described by one (1) or more of the following, endanger the life, health, property or safety of the public or its occupants:

(1) When any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or does not provide safe and adequate means of exit in case of fire or panic;

(2) When the walking surface of any aisle, passageway, stairway or other means of exit is warped, worn, loose, torn or otherwise unsafe so that it would not provide safe and adequate means of exit in case of fire or panic;

(3) When the stress on any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1½) times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location;

(4) When any portion has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for a newly constructed building of like area, height and occupancy;

(5) When any portion or member or appurtenance is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(6) When any portion of the building, appurtenance or ornamentation on its exterior is not of sufficient strength or stability, or is not anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one and one-half (1½) of that specified in the Building Code for a newly constructed building of like area, height and occupancy, without exceeding the working stresses permitted in the Building Code for such buildings;

- (7) When any portion has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
- (8) When the building or any portion thereof is likely to partially or completely collapse because of:
 - (1) Dilapidation, deterioration or decay;
 - (2) Faulty construction;
 - (3) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - (4) The deterioration, decay or inadequacy of its foundation; or
 - (5) Any other cause;
- (9) When, for any reason, the building or any portion thereof is manifestly unsafe for the purpose for which it is being used;
- (10) When exterior walls are not anchored to supporting or supported elements or are not plumb and free of holes, cracks, breaks, loose and rotting materials, or are not properly anchored or capable of supporting all nominal loads and resisting all load effects;
- (11) If the building was constructed or is maintained in violation of the Building Code, or of any state law or ordinance relating to the condition, location or structure of buildings;
- (12) If the building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Building Official, Fire Marshal or his/her designee to be a fire hazard;
- (12) When any portion of a vacant or abandoned building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is vacant or abandoned for a period in excess of forty-five (45) days so as to constitute such building or portion thereof an attractive nuisance or hazard to the public;
- (13) When the building or its curtilage contains accumulations of litter; refuse; garbage; rubbish; junk; animal carcasses; decaying flesh, fish, fowls or vegetables; stagnant water or other stagnant liquid; flammable liquids; slops; trash; or other deposits or substances, which are unwholesome, filthy, unsightly, offensive or unsanitary; likely to create or engender disease; likely to harbor insects or rodents; or likely to pollute storm water;
- (14) When a building which is partially constructed has not had any significant construction work done on it in the preceding six (6) months, and it is not secured by a fence or other means to prevent children and vagrants from entering the building; or

(15) When a building which is partially constructed has not had any significant construction work done on it in the preceding six (6) months and all building materials and construction equipment and tools have neither been removed from the construction site nor secured at the site to prevent their use by children or other unauthorized individuals; their theft; their deterioration; their vandalism; or their harborage of rodents or insects.

B. Notice.

(a) The Code official shall serve a notice of violation, complaint or order in accordance with the City Charter, City Codes and State Law.

(b) Notice of "Unsafe to Occupy" Structure.

(1) Every notice of unsafe to occupy shall be posted at or upon each entrance and exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Marshal Office
City of Galveston

The notice of unsafe to occupy shall specify the conditions which necessitate the posting and recite the emergency or shall identify any Order of unsafe to occupy and state where a complete copy of the Order may be obtained.

(2) Compliance violations. No person shall remain in or enter any building which has been posted, except that entry may be made to repair, remove, demolish or secure such building under permit. No person shall remove or deface any such notice after it is posted until the required work has been completed and a certificate of occupancy is issued pursuant to the provisions of the Building Code. Any person violating this subsection shall be guilty of a Class C misdemeanor punishable by a minimum fine of \$200.00, and not to exceed two thousand dollars (\$2,000.00).

Sec. 18-10. - Boarded exterior openings, windows and doors.

(a) Exterior openings, windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons, animals, a place of harborage, or to prevent entry or use by children;

(b) The owner is responsible to apply one coat of exterior paint to the exterior wood panels installed on the exterior openings, windows or doors;

(c) The exterior wood panels installed on the exterior openings, windows or doors shall be painted to correspond to the color of the building.

Sec. 18-11. - Abatement notice.

- (a) The city shall serve a notice to abate the violation to the owner or agent of the property. The notice to abate shall give the owner ten (10) calendar days from the date of the notice to abate the violation to correct the violation;
- (b) If the owner fails to abate the violation, the city may, without further notice, abate the violation by painting the exterior wood panels, and charging the expense, incurred in abating the violation to the owner, and the city shall fix a lien upon the property;
- (c) The city may institute any other appropriate proceedings at law to correct or abate the violation.

Sec. 18-12. - Fencing around perimeter of boarded building.

- (a) When an owner boards up a building within the city, and if the property owner fails to keep the property secured, it shall be the duty of the owner to install a minimum six (6) foot high chain link fence around the perimeter of the building.
- (b) Upon finding a violation of this section, the director shall serve a written abatement notice upon the owner. The notice shall advise the owner of the violation and shall give the owner ten (10) calendar days from the date of the notice to abate the violation.
- (c) If the owner fails to abate the violation, the city may, without further notice, abate the violation by erecting a six (6) foot high chain link fence around the perimeter of the building, and charging the cost of expense, material and labor incurred in abating the violation to the owner, and the city shall fix a lien upon the property.
- (d) Fencing regulations set forth in the city land development regulations shall not apply to fences erected pursuant to this article.

ARTICLE III. - ROOMING HOUSE—BED AND BREAKFAST

Sec. 18-13. - Permit required.

Rooming house or bed and breakfast. No person shall operate a rooming house or bed and breakfast without a valid rooming house or bed and breakfast permit. Before such permit is granted the applicant shall pay the annual required fees.

Hotel or motel. Except as provided, no person shall operate a hotel or motel or bed and breakfast without a valid hotel or motel permit. Before such permit is granted the applicant shall pay a permit fee of five hundred dollars (\$500.00) for each such permit.

Sec. 18-14. - Definitions.

For purposes of this section, the following definitions shall apply:

Hotel means a commercial establishment and or building in which members of the public obtain sleeping accommodations, and or lodging or other services for consideration. For purposes of this chapter, the term hotel shall include rooming house and bed and breakfast.

Motel means a commercial establishment or building in which members of the public obtain sleeping accommodations, and or lodging and other services for consideration for motorists in rooms usually having direct access to an open parking area.

A hotel or motel that carries and can show a current AAA, Mobile or National Flag rating, or a rating from a similar entity that inspects and rates hotels and motels and that is approved by the director of development services or designee, is exempt from these inspection and fee requirements.

Sec. 18-15. - Annual inspection.

- (a) Dwelling units, rooming units, rooming houses, hotels, and bed and breakfasts shall be inspected annually by the building official or designee to determine compliance with the minimum property maintenance standards safeguarding the health, and safety of the occupants of such dwelling units and of the general public.
- (b) The building official or designee is authorized to enter, inspect, examine and survey, at all reasonable times, all dwelling units, rooming units, rooming houses, hotels, or bed and breakfasts facilities.
- (c) The owner or occupant of every dwelling unit, rooming unit, rooming house, hotel, or bed and breakfast or the person in charge thereof, shall give the building official or his/her agent free access to such, dwelling unit, rooming unit, rooming house, hotel, or bed and breakfast at all reasonable times for the purpose of such inspection, examination and survey.

Sec. 18-16. - Annual fees.

- (a) The city shall assess each rooming house or bed and breakfast an annual inspection fee of two hundred and fifty dollars (\$250.00) for each such permit. The city shall not issue an inspection certificate indicating that a rooming house or bed and breakfast is in compliance with, building, public safety and health regulations until such fee is paid in full.
- (b) The city shall assess each hotel or motel an annual inspection fee of five hundred dollars (\$500.00) for each such permit. The city shall not issue an inspection certificate indicating that a hotel or motel is in compliance with, building, public safety and health regulations until such fee is paid in full.

ARTICLE IV. - GRAFFITI REMOVAL

Sec. 18-17. - Definitions.

For purposes of this section, the following definitions shall apply unless the context of their usage clearly indicates a different meaning:

Graffiti. Any unauthorized form of painting, scratching, writing or inscription, including without limitation, initials, slogans or drawings, regardless of the content or nature of the material

that has been applied to any wall, building, fence, sign, or other structure or surface and is visible from any public property or right-of-way or is visible from the private property of another person.

Owner. The record owner of the lot or parcel or other person specifically authorized in writing by the record owner to authorize the placement of any painting, scratching, writing or inscription upon the owner's property.

Unauthorized. Without the consent of the owner or without authority of law, regulation or ordinance. Unless the owner proves otherwise, lack of consent will be presumed under circumstances tending to show:

- (1) The absence of evidence of specific authorization of the graffiti by the owner;
- (2) That the graffiti is inconsistent with the design and use of the subject property; or
- (3) That the person causing the graffiti was unknown to the owner.

ARTICLE V. -BULKHEADS AND SHORELINE PROTECTION

Sec. 18-18. - Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Boat house. A structure located over the water used for the storage of boats.

Building inspector. The development services director, or designee.

Bulkhead. An upright partition, or a retaining wall located at the edge of a body of water, or other shoreline protection.

Dock. A structure extending alongshore or out from the shore into a body of water, to which boats may be moored, commonly described as a pier.

Owner. The owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located.

Shed. A structure used for shelter or storage.

Structure. Bulkheads, other shoreline protection, boat houses, docks, or sheds.

Substandard condition. The bulkhead or other structure constitutes a danger or nuisance to the health, safety or general welfare to the owner or occupants, adjacent property, or to the public.

Sec. 18-19. - Failure to maintain.

- (a) Bulkheads, or other shoreline protections, boat houses, docks, or sheds are to be maintained in good condition.
- (b) If the building inspector determines that a bulkhead, or other shoreline protection, boat house, dock, or shed is substandard, the building inspector shall give written notice to the owner or

occupant upon which the structure exists to abate the violation in accordance with this chapter.

- (c) The owner or occupant shall abate the violation by the repair, replacement or removal of the substandard structure.
- (d) If the owner fails to abate the violation as ordered by the building inspector, the city may make the necessary repairs or remove or remedy the condition, or cause the same to be done and charge the expenses incurred to the owner of the property or premises upon which the structure exists.
- (e) The city, shall assess its expenses to abate the violation and place a lien on such property, in accordance with state law. The lien shall attach to the property on the date on which the statement of expenses is filed in the real property records of Galveston County and the lien is subordinate to any previously filed lien.

ARTICLE VI. - DEPOSIT OF FILL MATERIAL

Sec. 18-20. - Dumping permit.

Unless specifically excepted, it shall be unlawful, for any person to deposit or dump on any property, or for any person to allow to be deposited or dumped on any property, any dirt or other fill materials without first obtaining a dumping permit from the city.

Sec. 18-21. - Exceptions.

- (a) Persons depositing or dumping and spreading dirt, sand or other gardening materials on the premises used in connection with an existing building for landscaping purposes;
- (b) The depositing of sand or other building material on a lot in connection with construction of improvements in progress for which a building permit has been obtained;
- (c) The dumping or depositing of dirt, sand, fill material, refuse, garbage, brush or junk for which a permit has been obtained under other provisions of the City Code; or
- (d) The dumping or depositing of such materials in a city dumping ground so designated by the city.

Sec. 18-22. - Issuance of permit.

The Development Services department shall be responsible for the issuance of dumping permits for dumping or depositing dirt or other fill material.

- (a) The department shall not issue a permit for dumping or depositing refuse, or junk. The department shall not issue a permit for dumping or depositing garbage or rubbish as those terms are defined in Texas Health and Safety Code, section 361.003.
- (b) The department shall issue each dumping permit to a specific person, firm, or corporation. Each permit shall specifically describe the property and location on which the material is to be placed. Each permit shall specify the type, origin and source of fill material to be dumped.
- (c) Before issuing the permit, the department shall ensure that the applicant has obtained the property owner's written approval for the filling of the property.
- (d) Each permit shall specify an expiration date, to be established by the director of the department, or the director's designee; however, the maximum duration of a permit shall not exceed thirty (30) days unless the director of the department or the director's designee grants an extension of time. Such extension of time shall not exceed thirty (30) days. A permit shall not be valid for more than sixty (60) days including any extension.
- (e) The department is authorized to promulgate forms to be completed by applicants for dumping permits.

Sec. 18-23. - Permit fees.

The fee for each permit shall be one hundred fifty dollars (\$150.00) or as determined by City Council. Fees are nonrefundable and shall not be prorated.

ARTICLE VII. Violation, Penalties, Abatement and Liens

Sec. 18-24. - General violation penalty.

- (a) Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Chapter shall be guilty of a Class C misdemeanor punishable by a minimum fine of \$200.00, and not to exceed two thousand dollars (\$2,000.00) per offense.
- (b) Each day or portion of a day during which a violation occurs or continues shall constitute a separate offense.
- (c) Failure to comply shall be deemed a strict liability offense. Proof of a culpable mental state is not required for a conviction of an offense under this chapter.
- (d) A criminal prosecution shall be in addition to any civil remedies to which the City is entitled by this Chapter or any other applicable ordinance or statute.
- (e) No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City or with any person who owns or holds an estate or interest in any building or structure which has been ordered repaired, removed, secured, vacated or demolished under the provisions of the Code of the City of Galveston or state law, or with any person to whom such building has been lawfully sold, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building or structure, or purchaser is engaged in the work as

ordered or in performing any necessary act preliminary to or incidental to such work. A person who obstructs, impedes or so interferes shall be guilty of a Class C misdemeanor punishable by a minimum fine of \$200.00, and not to exceed two thousand dollars (\$2,000.00) per offense.

Sec. 18-25. - Abatement of violation.

The imposition of the penalties herein prescribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, or structure or to stop an illegal act, conduct, business or utilization of the building or structure.

Sec. 18- 26. - Liens.

(a) Liens.

- (1) If the City assesses a civil penalty or if the city incurs expenses under this Article the City may place a lien against the land on which the building was located, unless the land is a homestead protected by the Texas Constitution.
- (2) A lien imposed pursuant to this Article is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens.
- (3) The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the official public records of real property in Galveston County, specifically in the office of the county clerk for Galveston County. The notice shall contain the name and address of the owner if that information can be determined; a legal description of the land on which the building was located; the amount of expenses incurred by the city or the civil penalty and the balance due.
- (4) A lien is extinguished when the property owner or other person with an interest in the legal title to the land pays the city the balance due in full.

(b) Notice and collection of penalty and expenses.

- (1) If the City incurs expenses under this Article the City shall cause a statement to be sent to the owner, setting forth the amount of the expenses and the interest accrued to date. The City shall thereafter cause an annual statement to be sent to the owner until the expenses and interest are paid in full.
- (2) A civil penalty or assessment for expenses shall accrue interest at the rate of ten (10) percent compounding interest from the date of assessment until paid in full.
- (3) The City shall be entitled to all remedies provided by law for the collection of debt in order to recover penalty, expenses and interest. However, the City shall not be entitled to foreclose a lien for repair expenses if the property on which the repairs were made is occupied as a residential homestead by a person sixty-five (65) years of age or older.

Sec. 18 – 27. - Building Board of Adjustments and Appeals.

Refer to Chapter 10, Article II. Building Board of Adjustments and Appeals, of the Code of the City of Galveston.

SECTION 3. The 2021 International Property Maintenance Code, is amended pursuant to the following Local Amendments, to read and provide as follows:

Chapter PART ONE: SCOPE AND APPLICATION:

Sec. 101.1 Title. These regulations shall be known as the International Property maintenance Code of the City of Galveston, hereinafter referred to as "this code".

Sec. 101.3 Purpose. The purpose of this code is to establish minimum requirements to provide a reasonable level of health, safety, property protections and general welfare insofar as they are affected by the continued occupancy or vacancy 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 reasonable minimum level of health, safety and general welfare as required herein.

Sec. 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 Swimming Pools and Spa Code*, *International Plumbing Code* and *NEPA-70 the ICC Electrical Code*. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code Galveston Land Development Regulations or other City of Galveston zoning standards*.

Sec. 103.1 Creation of agency.

The Marshal's Office is hereby the designated agency created and the official in charge thereof shall be known as the Executive Director of Emergency Management and Enforcement. The Executive Director of Emergency Management and Enforcement or their designee shall be responsible for enforcing the provisions of this code. Each and every reference to the Code Official shall be construed to mean the Executive Director of Emergency Management and Enforcement or their designee. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

Section 103.2 Appointment: shall be deleted in its entirety.

Section 107 "MEANS OF APPEALS" shall be deleted in its entirety and amended to read:

Refer to Chapter 10, Article II. Building Board of Adjustments and Appeals, of the Code of the City of Galveston

Section 108 "BOARD OF APPEALS" shall be deleted in its entirety and amended to read:

Refer to Chapter 10, Article II. Building Board of Adjustments and Appeals, of the Code of the City of Galveston

Section 109 "VIOLATIONS" shall be amended as follows:

Sec. 109.2 Notice of violation. The code official shall serve a notice of violation or order in accordance with Section 111.4. The City shall have the right to inform the property owner or the owner's authorized agent that if another violation of the same kind or nature is committed, at any time, within one year from original notice, the city may institute appropriate proceedings at law, and/or to correct or abate such violation without further notice and at the owner's expense and assess the expense against the property.

Section 112 “EMERGENCY MEASURES” shall be amended as follows:

Sec. 112.4 Emergency Repairs. Shall be deleted in its entirety.

Sec. 112.5 Costs of emergency repairs. Shall be deleted in its entirety.

Sec. 112.6 Hearing. Shall be deleted in its entirety.

Section 113 “DEMOLITION” shall be amended as follows

Sec. 113.4 Salvage materials. Shall be deleted in its entirety.

Chapter Three: “GENERAL REQUIREMENTS” shall be amended as follows:

Sec. 302.4 Weeds. Premises and exterior property shall be maintained free from weeds or plant growth in excess of nine (9) inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Sec. 304.14 Insect Screens. ~~During the period from (date) to (date) every~~ Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Chapter Six: “MECHANICAL AND ELECTRICAL REQUIREMENTS CDP” shall be amended as follows:

Sec. 602.3 Heat Supply. Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat ~~during the period from [DATE] to [DATE]~~ to maintain a minimum temperature of not less than 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Sec. 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat ~~during the period from [DATE] to [DATE]~~ to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

SECTION 4. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or

decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 5. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 6. All Ordinances of general and permanent nature, and amendments to such Ordinances, hereinafter adopted by the City Council, shall be drafted, so far as possible, as specific amendments of, or additions to, this Code. Amendments to this Code are intended for publication to the Galveston City Code. The Codifier is authorized pursuant to the Galveston City Code to make non-substantive changes to the Ordinance prior to publishing.

SECTION 7. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 8. This Ordinance shall be and become effective on, from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
SR. ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular meeting held on January 26, 2023, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this 27th day of January, 2023.

Secretary for the City Council
Of the City of Galveston