

ORDINANCE: 1774

AN ORDINANCE OF THE CITY OF CRESTVIEW, FLORIDA, RELATING TO PROPERTY MAINTENANCE AND HOUSING STANDARDS; RENAMING AND AMENDING CHAPTER 38 HEALTH AND SANITATION OF THE CITY OF CRESTVIEW CODE OF ORDINANCES; PROVIDING INTENT; PROVIDING FOR APPLICABILITY; PROVIDING DEFINITIONS; PROVIDING FOR BUILDING OFFICIAL; PROVIDING FOR ADMINISTRATIVE FINES, COSTS OF REPAIRS, AND LIENS; PROVIDING FOR NOTICES; PROVIDING FOR SUPPLEMENTAL ENFORCEMENT PROVISIONS; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, to ensure that properties, buildings, and structures are maintained, it is necessary to adopt proper regulations; and

WHEREAS, within the city limits of Crestview, property, buildings, structures and appurtenant structures may contain defects which increase the hazards of fire, accident or other calamities or other conditions which render such property, buildings, structures, and appurtenant structures unsafe, unsanitary, dangerous or detrimental to the health, safety and general welfare of the community; and

WHEREAS, defects or other conditions are a result of lack of maintenance and from general neglect; and

WHEREAS, these defects or other conditions can be relieved, prevented or eliminated through properly enforced standards, resulting in the upgrading of living conditions and an overall enhancement of the health, safety and general welfare of all residents and property owners within the community; and

WHEREAS, since its adoption, several provisions of Chapter 38 Health and Sanitation have become antiquated and require revision; and

WHEREAS, the City Council also desires to create additional provisions effectively implementing proper maintenance standards; and

WHEREAS, the City Council desires to update the standards for maintenance of property and structures in the city; and

WHEREAS, the City Council finds that the revisions of previously established codes and the implementation of a Property Maintenance Code serves a municipal purpose and is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRESTVIEW, FLORIDA:

SECTION 1- AUTHORITY. The authority for enactment of this ordinance is F.S.Ch. §166.

SECTION 2- FINDING OF FACTS. The preceding, whereas clauses are hereby adopted as findings of fact.

SECTION 3 – SEVERABILITY. If any word, phrase, sentence, paragraph or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

SEC. 38-1.- PURPOSE.

The purpose of this chapter is to protect the comfort, health, repose, safety and general welfare of the citizens who reside in the city and to prevent the maintenance of nuisances affecting the public generally. It is hereby declared by the city council that the creation or maintenance of a nuisance shall constitute irreparable public injury. In order to accomplish the foregoing purpose, it is deemed necessary to establish a mechanism of review and provide for remedies in order to abate a public nuisance by action of the city code enforcement board, city council or county court.

SEC. 38-2.- DEFINITIONS.

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

Abandoned means voluntarily relinquished by the owner for an apparently indefinite period of time. As applied to motor vehicles or other articles of personal property, the term includes but is not limited to any motor vehicle or other article of personal property which is left upon private property without the consent of the owner, lessee or occupant thereof for longer than two hours.

Board means the city code enforcement board which was created by the City Code.

Debris means abandoned or inoperative material which is stored externally and shall include but not be limited to one or more of the following: discarded household items, inoperative or abandoned machinery, motor vehicles, boats, trailers or household appliances, including but not limited to freezers, refrigerators, iceboxes, stoves, dishwashers, and washing or drying machines for clothing, or refuse, garbage, rubbish, trash, junk, use scrap, lumber, steel, plumbing fixtures, insulation, barrels, boxes, drums, piping, glass, iron machinery, excelsior or plastic.

Excessive growth means the growth of weeds or plants which are not cultivated or landscaped or regularly tended which reach a height in excess of 12 inches.

Externally means outside a fully enclosed building or structure, except that materials stored in a carport shall not be deemed to be stored externally.

Inoperative means not in working condition as designed, or incapable of being operated lawfully. For example, without limiting the meaning of the term, a motor vehicles designed to be operated upon the public streets shall be deemed inoperative if a current registration tag, also known as a license plate, of a kind required under state law as a condition of operation upon the public streets is not affixed thereto, or if one or more parts which are required for the operation of the vehicle are missing or not attached to the vehicle as designed.

Nuisance means that conduct defined in F.S. ch. 823, that conduct specified in this chapter and:

(1) Any continuing condition or use of premises or of building exteriors or of land premises or of building exteriors or of land which causes substantial diminution of the value of property in the vicinity of such condition or use;

(2) Any continuing condition or use of premises, building exteriors or land which unreasonably annoys, injures or endangers the comfort, health, repose, privacy or safety of the public through offensive odors, noises, substances, smoke, ashes, soot, dust, gas fumes, chemical diffusion, smog, flooding, disturbance and vibrations of earth, air, or structures, emanations, light, sights, entry on adjoining property by persons or vehicles; or

(3) Other unreasonable intrusions upon the free use and comfortable enjoyment of the property of the citizens of the city.

Owner, with respect to real property, means the person, corporation, partnership, or other legal entity, singular or plural, which is a record owner as recorded on the current tax rolls of the county. For condominium property, the term "owner" means the condominium association and not the individual unit owners.

Premises means the land and all structures and articles appurtenant or attached thereto which are owned, leased, occupied or controlled by a person.

Property means any individual parcel of real property or any portion thereof.

SEC. 38-3. - CONDITIONS AND CONDUCT.

The existence of any of the following specific conditions or conduct is hereby declared to constitute a public nuisance as that item is used in this chapter:

(1) A condition or use that causes a substantial diminution of property value of property in the vicinity of the condition or use.

(2) Condition similar to that described in F.S. ch. 823 that has occurred or is occurring.

(3) A condition or use that unreasonably intrudes upon the free use, privacy and comfortable enjoyment of the property of the citizens of the city. The use or condition may be considered an unreasonable intrusion upon the free use and comfortable enjoyment of property when one or more of the following conditions are found to exist:

a. The repeated intrusion upon property adjoining or surrounding the use or condition identified in the complaint of odors, gases, smoke, ashes, soot, dust, fumes, chemical diffusion, smog or other particles or gases.

b. The repeated intrusion upon property of disturbances of earth or air including but not limited to vibrations,

~~explosions, light and loud, raucous and unnecessary noise, and the repeated unauthorized intrusion of adjoining property by patrons or uses of the premises, which unreasonably disturbs or interferes with the peace, comfort, privacy, and repose of owners or possessors of real property in the enjoyment and the use of their property.~~

~~e. The repeated unauthorized intrusion upon property by persons or vehicles which adversely disturb the privacy, comfort, peace, repose, and use of owners or possessors of property adjoining the premises where the persons or vehicles complained of originates.~~

~~d. The repeated attraction to the premises where the use or condition complained of is maintained by persons who, through frequent raucous or disorderly conduct, through repeated disturbances of the peace or through violation of any law of the state, county or city, adversely affect ordinarily reasonable and reasonably behaved persons in the enjoyment and use of their property.~~

~~(4) Buildings which are unoccupied, abandoned, boarded up, partially destroyed, or left for unreasonably long periods of time in a state of partial construction or disrepair, such as broken windows, partial walls and foundations, unpainted or peeled paint surfaces, etc., abuse or neglect as to appearance provided that any unfinished building or structure which has been in the course of construction three years or more, and which the appearance and other conditions of such unfinished building or structure substantially detracts from the appearance of the immediate neighborhood or reduces the value of property in the immediate neighborhood or is a nuisance, shall be deemed and presumed to have been left for an unreasonably long period of time in the sense of this subsection.~~

~~(5) Any attractive nuisance dangerous to children in the form of abandoned or broken equipment, hazardous pools, excavations, or neglected machinery.~~

~~(6) Overt blocking of drainage pipes, ditches, channels, and streams, so as to cause flooding and adversely affect surrounding property.~~

~~(7) The existence of excessive growth of weeds or vegetation, or the existence of any accumulation of debris, trash, garden trash, junk, untended growth of vegetation, or undergrowth of dead or living vegetation, upon any property to the extent and manner that such property contains or is likely to contain rodents, reptiles or other vermin, or furnishes a breeding place for flies, mosquitoes, or wood destroying insects, or otherwise threatens the public health, safety or welfare.~~

~~(8) The outdoor storage of all or part of any dismantled, partially dismantled, inoperative or discarded vehicle, recreational vehicle, machinery, farm equipment, aircraft, construction equipment, boat, personal watercraft, trailer, truck, motorcycle, or bicycle, which is located on the premises of a lawfully established storage yard or which is on the premises of a lawfully established vehicle service establishment and is in the process of repair or maintenance by that establishment.~~

~~(9) Any other condition or use that constitutes a nuisance to the public, generally, as that term is defined in section 38-2, which is continually or repeatedly maintained, the abatement of which would be in the best interest of the health, safety and welfare of the citizens of the city.~~

SEC. 38-4. - MAINTENANCE OF PRIVATE PROPERTY.

~~No person owning, leasing, operating, occupying or having control of any premises within the city shall maintain, keep or permit any nuisance, as defined in section 38-2 and as further defined in section 38-3,~~

~~affecting the citizens of the city.~~

SEC. 38-5. – PENALTY.

~~Any violation of this section shall be punished as provided for in section 1-11 of the City Code and each day that such condition continues regarded as a new and separate offense.~~

Sec. 38-1. – Purpose.

This Chapter aims to protect the comfort, health, repose, safety, and general welfare of the community who reside in the city and prevent nuisances affecting the community. It is hereby declared by the city council, that the creation of a nuisance shall constitute an irreparable public injury. Requiring an established mechanism of review and provide for remedies for abate a public nuisance by the action of a special magistrate, city council, or county court.

Sec. 38-2.- Definitions.

The words, terms, and phrases used in this Chapter shall have the meaning ascribed to them, except where the context indicates a different purpose. Words not defined in this Chapter shall have the meaning stated in Webster's current New Collegiate Dictionary, as revised.

Meaning of certain words. Whenever the words "structure," "building," "dwelling," "dwelling unit," and "premises" are used in this Chapter, they shall be construed as though they were followed by the words "or any part thereof."

Accessory structure; A structure which is incidental to that of the main building and which is attached thereto or located on the same premises.

Alteration; Any change, in construction or occupancy, other than repair or addition.

Assessed value; the most recent assessment recorded in the ad valorem tax rolls by the county property appraiser.

Building code; The Florida building code.

Building official; The individual or duly authorized individual designated to enforce the provisions of this Chapter.

Code Compliance; The division that is designated to enforce the provisions of this Chapter.

Commercial; Any property designated as commercial as defined in the Land Development Regulations.

Dangerous structure or premises; Any structure or premises that have any or all the conditions or defects described below shall be considered hazardous.

1. The walking surface of any stairway or exit or other of egress is so warped worn loose, torn, or unsafe as not to provide safe and adequate egress.
2. Any portion of a building, structure, or object that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
3. Any portion of a building, or any member, appurtenance, the ornamentation on the exterior thereof that

is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place to meet the design criteria under FBC Ch.16.

4. The building or structure, part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, unstable support, or any other reason, is likely to partially or completely collapse, or portion of the foundation or underpinning of the building or structure is likely to fail or give way.
5. The building or structure, or any portion thereof, is unsafe for its use and occupancy.
6. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned and is an attractive nuisance to children who might play in the building or structure, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
7. Any building or structure constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building code, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
8. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is determined by the building official to be unsanitary, unfit for habitation or in such a condition that is likely to cause sickness or disease.
9. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building, or structure is abandoned to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

Deterioration; A condition or appearance of a building characterized by rot, crumbling, or other evidence of physical decay or neglect, excessive use, or lack of maintenance.

Dilapidated; A condition of structural disrepair or deterioration to the extent requiring rehabilitation, reconstruction, or demolition.

Dwelling; Any building or structure used and occupied for human habitation or intended to be used as such and shall include any outhouses and appurtenances.

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.

Exterior of premises; The portions of a building that are exposed to public view and the open space of any premises outside of any building erected thereon.

Fire hazard; Anything or any act which increases or may cause an increase of the hazard or menace for a fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire or which may obstruct, delay or hinder or may become the cause of an obstruction, a delay, a hazard or a hindrance to the prevention, suppression or extinguishment of the fire.

Garbage; Any perishable or non-perishable waste, including but not limited to garbage, junk, rubbish, dead animals, household matter, and the generation of harmful or offensive gases or odors which, during or after decay, may serve as breeding or feeding material for flies or other insects.

Garden trash; Accumulation of leaves, grass or shrubbery cuttings, and other brush, vines, and trees.

Good state of repair; A dwelling unit is safe and comfortable for its regular intended use or that the materials used in any structure are sound and stable and performing the function for which intended.

Good working condition; An item is fully operable for the use for which it was intended.

Graffiti; Unauthorized writings, drawings, inscriptions, figures or marks of paint, ink, chalk, dye or other similar substances on public or private buildings, structures or places, regardless of the content or the nature of materials used in the City Council of the act, not authorized by the property owner or possessor of which is not permitted under the City Code and ordinances.

Inoperable vehicle; A vehicle which is in a state of disrepair and incapable of being moved under its own power, or a vehicle which fails to meet the minimum requirements necessary for the lawful operation of a motor vehicle on the streets and highways of the state, to include a valid license plate adequately placed on the vehicle, is unlicensed, unregistered, wrecked, abandoned, in a state of disrepair, missing parts, dismantled, flat tires or is incapable of being driven upon the public streets for any reason. An inoperable vehicle shall not apply to the following: A race car or mud truck, that is actively engaged in racing and equipped for racing with sponsors displayed. Demolition race cars shall be considered inoperable vehicles—any vehicle parked on government-owned property.

Junk; Bicycles that are not in good working order, broken toys, cable, wire, iron, metal, aluminum, glass, paper, or other waste or secondhand material or discarded articles of little meaning or worth.

Litter; Includes garbage, paper, cans, bottles, cartons, snipe signs, or other like matter.

Nuisance condition; Any nuisance as defined by law or any attractive nuisance which may be detrimental to the health or safety of the community, whether in a structure or building, on the premises of a structure or building, or upon an unoccupied lot. This definition includes, but is not limited to, the following:

1. Any attractive nuisance which may prove detrimental to the health or safety of the community, whether in a building, on the premises of a building or upon an unoccupied lot including, but not limited to, unclean swimming pool or spa, abandoned appliances, vehicles and any structurally unsound fences or structures, lumber, trash, fences, debris, and vegetation; and
2. Unsanitary condition or anything offensive to the senses or dangerous to health, including but not limited to, the emission of odors, sewage, human waste, liquids, gases, dust, smoke or whatever may render air, food or drink detrimental to the health of human beings; and
3. Physical condition includes old, dilapidated or abandoned scrap or metal, paper, building materials or equipment, bottles, glass, furniture, rags, tires, vehicles or parts thereof; and
4. Any vegetation which is not commercially grown or sold for landscaping or is grown, sold or used for decoration but is not being maintained; and
5. Physical conditions dangerous to human life or detrimental to health or persons on or near the premises where the condition exists.

Occupant; The head of household and, when used in the plural, shall include all other persons living, sleeping, cooking, or eating in or having actual possession of a dwelling unit.

Overgrowth; Vegetation over ten inches in height.

Owner; A holder of any legal or equitable estate in the premises, whether alone or jointly with others and whether in possession or not, and, if the case permits shall include all individuals, associations, partnerships, corporations and others who have interest in a structure and any who are in possession or control thereof as an agent of the owner, as executor, administrator, trustee, or guardian of the estate of the owner. Any such person thus representing the owner shall be bound to comply with the provisions of this Chapter and of the rules and regulations adopted pursuant thereto to the same extent as if he were the owner and upon failure to comply therewith shall be subject to the same penalties hereinafter set out. Any person who is a lessee of any part or all any commercial premises shall be deemed to be a co-owner with the lessor and shall have joint responsibility

for the portion of the premises occupied by the lessee.

Permit; An official document or certificate issued by the building official authorizing the performance of a specific activity.

Premises; Any lot, plot or parcel of land, or easement, including any structure or building thereon.

Public property; Any city-owned, -leased, -controlled -dedicated or -platted real property, including but not limited to parks, alleys, streets, rights-of-way, or other real property.

Public view; Any premises or any building which may be lawfully viewed by the public from a sidewalk, street, alleyway, parking lot, or any adjoining premises.

Repair; The construction or renewal of any part of an existing building for its maintenance. The word "repair" or "repairs" shall not apply to any change of construction.

Residential; Any property designated residential as defined in the Land Development Regulations.

Rubbish; Any accumulation of paper, packing material, rags, wood or paper boxes or containers, sweepings, and all other gatherings of a nature other than garbage, which is usual to housekeeping and the operation of stores, offices and other business places, and also any bottles, cans or other containers which, due to their ability to retain water, may serve as breeding places for mosquitoes or other water-breeding insects.

Structurally sound; Free of imperfections that affect the intended use of a structure.

Structure; That which is built or constructed.

Structure unfit for human occupancy; A structure is unfit for human occupancy whenever the building official finds that such structure is unsafe, or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat-infested, contains filth and contamination, or other essential items required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or the public.

Supplied; Paid for, furnished, or provided by or under the owner's or operator's control, his agent or representative.

Tenant; A person who has the occupation or temporary possession of a dwelling or dwelling unit but does not hold title to the same.

Trash; Anything worth little or nothing; junk, rubbish, or something not in good working condition.

Unfit for human habitation; Dwellings which are unfit for human habitation due to dilapidation or defects creating or increasing the hazards of fire, accident or other calamities; lack of ventilation, light or sanitary facilities; overcrowding or other conditions rendering such dwellings unsafe or insanitary or dangerous or detrimental to the health, safety or morals or otherwise to the welfare of the inhabitants.

Unsafe structure; A structure that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure or, because such structure is unsafe or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

Unsafe equipment ; An unsafe stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is

a hazard to life, health, property, or safety of the public or occupants of the premises or structure.

Illegal structure; A structure that is in whole, or part, erected, altered, or occupied contrary to law.

Waste; Garbage, yard debris, junk, rubbish, sewage, land clearing debris, construction debris, hazardous waste, and substances that may pollute or tend to pollute any real property or waters.

Vermin; Common harmful or offensive animals or insects that are difficult to control.

Sec. 38-3. - Code Compliance Division; jurisdiction Building Official duties and authority.

1. The Code Compliance Division shall have all powers, duties, and responsibilities to administer and enforce city codes: The Building Official shall be deemed an officer to enforce the provisions of this Chapter.
2. No person shall oppose, obstruct, or resist a Code Compliance Officer or the Building Official in the discharge of his or her duties.

Sec. 38-4. - Maintain a public nuisance prohibited.

Any owner, agent, lessee, or occupant of any property within the city limits shall not allow or permit a public nuisance as defined in this Chapter. The existence of any of the following conditions or conduct is hereby declared to constitute a public nuisance. Every owner shall maintain their property, structures, and buildings in compliance with these requirements.

1. Inoperable vehicles are a nuisance due to safety, aesthetics, and visual impact on surrounding areas. Such inoperable vehicles constitute a breeding ground for mosquitoes, snakes, rats, rodents, and other vermin. No inoperable vehicle, including a motor vehicle frame, vehicle body, or parts, shall be parked or stored on any property, public land, right-of-way, or easement. Any vehicle or inoperative machinery including, but not limited to, cars, trucks, vans, motorcycles, minibikes, all-terrain vehicles, boats, excavators, front end loaders, which by quantity, placement or visibility would in any way constitute a public nuisance as defined in this Chapter shall be considered to be a violation of this code and subject to penalties as outlined in this Chapter.
2. Any person in charge of, or in control of, any property in a residential or a commercial zoned property, whether as an owner, lessee, tenant, occupant or otherwise, to allow any dismantled, partially dismantled, inoperative or discarded machinery, vehicle, boats or parts thereof, to remain on such property longer than seventy-two hours.
3. No person shall abandon, discard, or hold for resale on the premises any vessel or vehicle visible to the public, but not in use by the owner. A licensed place of business authorized to operate sales or a junkyard is not affected by this restriction.
4. The existence of any accumulation of vegetation, debris, rubbish, trash, garbage, garden trash or junk, as defined in this Chapter, upon any parcel of land, improved or unimproved, within the city, to the extent that such parcel may threaten or endanger the public health, safety or welfare or may reasonably cause disease or adversely affect and impair the economic welfare of adjacent property, is hereby prohibited and declared to be a public nuisance.
5. Nothing shall be allowed on any parcel of land that shall in any way be offensive or harmful because of the emission of odors, gases, dust, smoke, light, or vibration, nor shall anything be constructed or maintained that would in any way constitute an eyesore or nuisance to adjacent property owners.

residents or to the community.

6. The existence of accumulation or overgrowth of weeds, undergrowth or other dead or living plant life upon any parcel of land, improved or unimproved, in the manner, that such parcel of land contains nuisances which threaten or endangers the public health, safety or welfare or may reasonably cause disease or which adversely affects and impairs the economic welfare of adjacent property.
7. The accumulation of trash, debris, garbage, or waste of any kind on any parcel under shall constitute an eyesore or nuisance to adjacent property owners, residents, or the community.
8. Any person to dump or dispose of any trash, debris, garbage, or a waste of any kind, except in such places or such a manner as is lawful for the disposal of the waste under the existing city, county, state, or federal ordinances, laws, and regulations.
9. Any person to produce or accumulate any trash, building wastes, tree trunks or branches away from a person's residence or licensed place of business while the person is acting in the capacity of a contractor, including, but not limited to, a tree surgeon, landscaper, building contractor or otherwise, without removing same to a designated landfill.
10. Any person to bury any garbage or trash within the city, except at such landfills or to burn any garbage or trash within the city, except at such designated landfills, without first obtaining a permit from the fire marshal.
11. For the owner, tenant or occupant of any parcel of land to operate or permit the operation of any business where, trash, litter and other debris generated by the operation or the customers or patrons thereof is regularly carried or conveyed by such winds in significant quantities into or upon any public street.
12. All trash container areas shall be maintained in a manner that prevents the accumulation of trash, debris, rubbish, and litter.
13. No merchant, storekeeper, or another person shall sweep onto any sidewalk, pavement, alley, street, or other rights-of-way of the city the sweepings or trash from such store or premises.
14. Fences, dumpster enclosures, swimming pools, and spas shall be maintained in a good state of repair.
15. Any structure in the city which because of fire damage, age, decay, deterioration, structural defects, disrepair, improper design, unstable foundation or other causes is dangerous to the occupants thereof or to surrounding buildings and the occupants thereof or a menace to public health or a fire hazard or so unsafe as to endanger life or property or render the use of the public streets dangerous shall constitute a nuisance.
16. Maintenance responsibility for mobile homes and premises located within mobile home parks lies with the responsible party based on the obligations outlined in Section 723.024, Florida Statutes.
17. **Exceptions.** This section shall not apply to such machinery, vehicles, boats or parts thereof, scrap metal or junk in an enclosed building or on the premises of a business operated in a lawful manner and in accordance with permissive uses as authorized under the zoning laws of the city, when necessary to the operation of such business.

Sec. 38-5. – Commercial vehicles.

All commercial vehicles larger than 4 tons shall not be allowed to park in residential districts except to deliver materials or provide a temporary service. Vehicles containing hazardous materials such as fuels, explosives, chemicals, or gases are prohibited from being parked unattended in residential districts at any time.

Sec. 38-6. – Stagnant Water/Swimming pool and spa maintenance requirements.

1. Pools and spas shall be kept in working order, so that pool and spa water remain free and clear of pollutants and debris, and the water quality shall be such that it does not create a breeding ground for mosquitoes or other insects.
2. If a swimming pool has been converted to a fishpond, there must be adequate filtration to ensure the water does not become stagnant, and the water quality shall be such that it does not create a breeding ground for mosquitoes or other insects.
3. No person owning, operating, or having possession of any property within the city shall allow the accumulation of stagnant water. Roofs or other structures or improvements designed for the retention of water are exempt from this section but shall be subject to the design capabilities of a said roof, structure, or improvement or other governing codes.

Sec. 38-7. - Graffiti declared a public nuisance.

1. It shall be prohibited for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, structure or any other real or personal property.
1. It shall be prohibited for any person owning property, acting as manager or agent for the owner of the property, or in possession or control of the property to fail to remove or effectively obscure any graffiti upon any public or private building, structure or any other real or personal property.
 2. This section shall not be construed to prohibit temporary, easily removable chalk or other water-soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with:
 1. Traditional children's activities such as drawing, creating bases or a playing field for games such as stickball, kickball or handball, hopscotch, and similar activities, and
 2. Any lawful business or public purpose or activity.

Sec. 38-8. Authority of the Building Official.

The building official is authorized during his or her duties in the administration and compliance of this Chapter to exercise the powers below and to issue orders.

Sec. 38-9. - Application of standards.

The standards established by this Chapter do not replace or modify standards set by other ordinances or sections of this code for the construction, replacement, or repair of structures. Where the provisions of this Chapter impose a lower standard than any other ordinance or section of the code or the laws of the state, the higher standard shall prevail.

Sec. 38-10. - Standards for commercial, business, institutional and industrial structures—Generally.

Every structure and the premises on which it is situated in the city used or intended to be used for commercial, business, institutional or industrial purposes shall comply with the provisions of this Chapter, whether or not the structure shall have been constructed, altered or repaired before or after the enactment of this code, irrespective of any permits or licenses which shall have been issued for the use or occupancy of the structure or premises and notwithstanding any permit which shall have been issued for the construction or repair of the structure or the installation or repair of equipment or facilities prior to the effective date of the ordinance from which this Chapter was derived. This section establishes specific standards for the initial and continued occupancy and use

of all such structures and does not replace or modify standards otherwise set for the construction, repair, alteration or use of the structure, the premises, or the equipment or facilities contained in the structure or on the premises.

Sec. 38-11. - Maintenance of exterior of premises.

1. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of occupants, customers, pedestrians, and other persons utilizing the premises and shall be promptly removed and abated by the owner or occupant. It shall be the duty of the owner or occupant to keep the premises free of hazards which include, but are not limited to, the following:
 1. Inadequate runoff drains for stormwaters;
 2. Foundations, floors, and walls which are not structurally sound;
 3. Chimneys, flues, and vent attachments that are not safe, durable, smoke tight and capable of withstanding the action of flue gases and,
 -
 4. Exterior porches, landings, balconies, and stairs which are not provided with guardrails and handrails properly designed and maintained to minimize the hazard of falling.

Sec. 38-12. - Responsibilities of the owner of vacant structures.

1. The owner of a vacant structure shall be responsible for maintaining the property in compliance with this Chapter.
2. All accessory buildings and fences on the premises on which a vacant dwelling is located shall be maintained as required by this Chapter.

Sec. 38-13. Procedures for the repair and demolition of unsafe structures;

When a structure or equipment is found by the building official to be illegal, unsafe, or unfit for human occupancy, such structure shall be posted according to the provisions in this code.

Sec. 38-14. Order to vacate.

1. If a structure is unfit for human habitation and occupancy, and is not in danger for structural collapse, but is open such that the interior of the structure is easily accessible through open or broken windows, open or broken doors, or missing structural elements, the building official is authorized to issue a demand for correction per this code.

Alternatively, should the structure,

1. Pose an imminent danger to the health, safety, and welfare of the general public;
2. Be occupied periodically by transients or vagrants or,
3. Be utilized for illegal conduct in violation of any federal, state, or local law.

The building official is authorized to have the structure immediately secured so as not to be an attractive

nuisance by posting a notice at each entrance to the building and by sealing each accessible entrance.

When the building official elects to post a "notice " on a structure at each accessible entrance, per subsection above, the building official shall send a bill for the city's expense in closing the structure to the owner of the property underlying the structure or the agent of such owner of the property underlying the structure by certified mail, return receipt requested. Should the city's bill be returned unclaimed, the city may then post the bill on the closed structure and at a conspicuous location at City Hall for ten (10) days, which, on the tenth day after posting, shall constitute the equivalent of delivery. After billing by the city, if the full amount due the city is not paid by the owner of the structure or the agent of the owner of the structure within thirty (30) days after receipt of the bill or after the expiration of ten (10) days after posting the bill, the building official shall cause to be recorded in the public records of Okaloosa county, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which such work was done, and an affidavit of constructive service by posting, if any, and the recording of such sworn statement shall constitute a special assessment lien on the property equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such special assessment lien may be foreclosed in the manner provided for by general law.

Any owner aggrieved by the findings and order of the building official shall have the right to appeal said decision prior to the expiration of the time within which to pay the bill for closing the structure due to the city. Any appeal taken must be in writing, within ten (10) days of a posted notice and received by the City Clerk at 198 Wilson Street North, Crestview, Florida 32536. In the event, the time for the owner to pay expires on a weekend, evening, or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which notifies the city of the owner's request. The building official shall place the appeal on the next scheduled Code Enforcement Hearing or request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. It shall be the responsibility of the owner of the property in question to show that the city's actions are without reason. The special magistrate shall determine whether the appeal is justified. The appeal hearing shall be conducted in accordance with the provisions of Chapter 162, Florida Statutes. If it is determined by the Special Magistrate, based on competent substantial evidence in the record, that the city's actions are without reason, the cost for closing the structure shall be borne by the city.

No structure closed by the city pursuant to this section may be reopened unless the said structure is in full compliance with this code or an appeal hearing shows that the city's actions in closing the structure are without reason.

Sec. 38-15. Prohibited occupancy. Any structure posted by a building official shall be vacated as ordered by the building official. Any person who shall occupy a posted premise or shall operate posted equipment shall be subject to the penalties of this section.

Sec. 38-16. Supplemental provisions. Nothing contained in this division shall prohibit the City of Crestview from enforcing its codes by any other, including, but not limited to, injunction, abatement, or as otherwise provided by code.

1. Prior to occupancy, every residential or nonresidential structure or building shall be connected to utility systems as follows:
1. Every occupied structure shall be properly connected to a public water system or an approved private water system.

2. Every occupied structure shall be properly connected to a public sewer system or an approved private sewage system.
3. Every occupied structure shall be provided with an electrical system that shall be connected to a source of power in accordance with the Florida building code.

Sec. 38-17. Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to eliminate an immediate hazard to life or property or when such utility connection has been made without approval to any building, structure, or system regulated by this Chapter. The building official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to the disconnection, the owner or occupant of the building, structure, or service system shall be notified in writing as soon as practical thereafter.

Sec. 38-18. Criteria to demolish.

1. The building official may order the demolition or removal of a structure when it is determined that:
 1. The structure poses a serious threat to public health, safety, or welfare; or
 2. It is damaged, deteriorated, or defective to such an extent that the cost of restoration or repair exceeds fifty-one percent of the assessed building value.

Sec. 38-19. Demolition review team.

1. The demolition review team must review any structure that has been identified for demolition by the building official. The demolition review team shall be comprised of the director, the fire marshal, and the building official or their respective designees. When the structure identified for demolition is a contributing structure located within a local or national historic district or is a designated landmark, the historic preservation committee, or designee, shall be included as a member of the demolition review team. The city manager shall be authorized to designate persons as alternate members of the demolition review team when a member is unavailable.
2. If the owner does not demolish or remove the structure within the time fixed in the order, the building official may demolish or remove the structure, either by use of city resources or by an independent contractor.

Sec. 38-20. Emergency circumstances.

- (1) Whenever the building official determines, any condition or circumstance warranting the issuance of any order is imminently endangering life, limb, health, or property, an emergency order may be issued. The building official must immediately notify the owner, occupant, operator, or other parties having an interest in the building, structure, dwelling, or property, of the issuance of an emergency

order and direct, immediate correction of the condition or circumstance.

(2) The owners, occupant, operator, or other parties having an interest in the building, structure, dwelling, or property shall be notified by any expedient available, including but not limited to personal delivery, facsimile, or electronic mail. The property shall also be posted with the emergency order.

(3) When public safety requires immediate action, the building official may enter upon the premises. Assistants may be required by either using city resources or an independent contractor. The termination of the condition or circumstance is at the expense of the owner, occupant, operator, or interested parties.

(4) If the circumstances do not permit the hearing of an appeal before the city takes emergency abatement or corrective actions, the owner, occupant, operator or another party having an interest in the building, structure, dwelling, or property shall have the right to an appeal hearing as soon as practicable.

(5) An emergency order is final upon issuance.

The building official may:

1. Rescind or modify any order issued;
2. Extend the time for compliance with any order issued; and
3. Stipulate to the dismissal of any action commenced by or against him or her.
4. A person shall not alter, deface, or remove any posted order during the pendency of said order.

Sec. 38-21. Notices. Whenever the building official has reason to condemn a structure, or equipment under the provisions of this section, a notice of violation shall be posted in a conspicuous place on or about the structure and shall be served on the owners of the land, agent, or the person responsible for the structure or equipment by the United States certified mail, return receipt requested. If the notice pertains to equipment, it shall also be placed on the equipment in violation. The notice shall specify a reasonable time in which the structure or equipment owner or the person or persons responsible for the structure or equipment shall abate the condition and bring such structure or equipment into compliance.

Sec. 38-22. Notices. Upon failure of the owner or person responsible for complying with the notice provisions within the time given, the building official shall post on the premises or on defective equipment a notice *that includes* a statement of the penalties provided for occupying the premises, operating the equipment or removing the notice.

Sec. 38-23. Notice removal. The building official shall remove the notice whenever the issue has been eliminated. Any person who defaces or removes a notice without the building official's approval shall be subject to the penalties provided by this code.

Sec. 38-24. Order to repair.

Whenever the building official, determines that a structure, or parts thereof, does not meet the standards required by this Chapter, presents a serious threat to the public, health, safety, and welfare of the community, the building official, may order the repair, stabilization, or replacement of any part of the structure, including the removal of any work done in violation of this code. In the event of default by the owner, occupant or operator repairing, stabilizing, or replacing the part of the structure so ordered within the time fixed in the order, the building official may issue a subsequent order authorized in this section, as may be deemed necessary.

Sec. 38-25. Record. The building official shall cause a report to be filed in an unsafe condition. The report shall

state the occupancy of the structure and the nature of the unsafe condition.

Sec. 38-26. Order to secure.

1. Any vacant structure that is unsecured or does not meet the requirements as outlined in this Chapter.
2. No structure may be boarded up for more than thirty (30) days unless:
 1. The owner is granted a written waiver signed by the building official and the Code Official, or
 2. The structure has been closed in accordance with this code.

Sec. 38-27. - Final order and orders binding.

1. **Final order.** All orders of the building official shall be final upon the expiration of the time set forth in order for appeal, unless, prior to the expiration of such period, a written petition for appeal is filed with the Building Official.
2. **Orders binding.** No order of the building official shall in any way be affected by the conveyance of the title to any real property, building, or other structure or of any interest in any real property, building, or other structure. A person who acquires such an interest in any property or improvement while it is subject to an order of the director shall comply with that order to the same extent as if he had held his interest at the time the order of the director was issued. Upon request, the director shall provide all persons acquiring such interests with copies of all notices and orders previously served and issued concerning the real property, building, or other structure conveyed at the expense of the person requesting the copies.
3. All structures shall be maintained in accordance with this code, securing a structure in accordance with this code does not relieve the owner from complying with this provision.

Sec. 38-28. Penalties.

Any person who violates any of the provisions of this section is punishable as provided in F.S. 162.

SECTION 4 – SCRIVENER’S ERRORS. The correction of typographical errors which do not affect the intent of this Ordinance may be authorized by the city manager or designee, without public hearing, by filing a corrected or re-codified copy with the City Clerk.

SECTION 5 – ORDINANCE TO BE LIBERALLY CONSTRUED. This Ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

SECTION 6 – REPEAL OF CONFLICTING CODES, ORDINANCES, AND RESOLUTIONS. All Charter provisions, codes, ordinances and resolutions or parts of charter provisions, codes, ordinances and

resolutions or portions thereof of the City of Crestview, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7 – EFFECTIVE DATE. This ordinance shall take effect on adoption.

PASSED AND ADOPTED ON SECOND READING BY THE CITY COUNCIL OF CRESTVIEW,
FLORIDA ON THE _____, DAY OF _____, 2020.

ATTEST:

ELIZABETH M. ROY
City Clerk

APPROVED BY ME THIS _____ DAY OF _____, 2020.

J. B. WHITTEN Mayor

~~Strikeouts are deletions~~, Underline are additions