

ORDINANCE NO. 24-1647

AN ORDINANCE OF THE CITY OF DENTON AMENDING CERTAIN PROVISIONS OF CHAPTER 17 OF THE DENTON PROPERTY MAINTENANCE CODE INCLUDING BUT NOT LIMITED TO ART. I. SEC. 17-2 DEFINITIONS BY INCORPORATING OR UPDATING THE DEFINITIONS OF “APPRAISED VALUE,” “APPROVED,” “BUILDING,” “BUILDING OFFICIAL,” “CONVICTION,” “CHRONIC OFFENDER,” “DANGEROUS STRUCTURE,” “CODE ENFORCEMENT OFFICER,” “DEMOLISH,” “DILIGENT EFFORT,” “MINIMUM HOUSING STANDARDS,” “NOTICE PARTY(TIES),” “SECURING,” “STRUCTURE,” “VACANT” BY REPEALING THE DEFINITION “CODE OFFICIAL”, AND MODIFYING SECTIONS 17-2, 17-142, 17-143, 17-144, 17-158, 17-167, AND 17-168 TO REMOVE REFERENCES TO “CODE OFFICIAL;” AND BY AMENDING ART. I. SEC. 17-3. ENFORCEMENT BY REPLACING 17-3(A), and 17-3(B), AND BY CREATING 17-3(C); AND CREATING 17-4, PENALTIES; AND AMENDING ARTICLE II. NOISE AND ODORS BY REMOVING “AND ODORS” AND REPEALING ART. II. SEC. 17-21. ODORS; AND AMENDING ARTICLE IV. GRASS, WEEDS AND OTHER VEGETATION. SEC. 17-40.; AND AMENDING ART. VIII. FENCES. SEC. 17-80. TO REPEAL PART (C); AND BY AMENDING SECTION 17-101(a) PARKING NUISANCES TO REPEAL (3); AND BY REPEALING AND REPLACING THE PRESENT ART. XIII. BUILDINGS AND BUILDING REGULATIONS. DIVISION 3. DANGEROUS STRUCTURES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City desires to enhance Chapter 17 of the Denton Property Maintenance Code to better serve our community's needs and support the Council's priority of fostering healthy and safe communities; and

WHEREAS, these enhancements are proposed Chapter 17 changes that are tailored to: streamline and clarify the City's enforcement process; remove subjective property maintenance standards such as odor; and fine tune property maintenance standards related to disposal of yard debris, fencing, and parking nuisances; and

WHEREAS, it is also in the public interest that the City have a robust dangerous building program in place to serve the community's interest in healthy and safe communities by having a means to safely monitor and abate dangerous structures; and

WHEREAS, City staff engaged in a thorough review of the dangerous structure code sections of numerous Texas cities and have used that comparative analysis to craft a code update that balances a property owner's due process rights with the community's interest and need in rehabilitating, repairing, or removing dangerous, unsafe buildings; and

WHEREAS, the Health and Building Standards Commission has, in their July 11, 2024 meeting, reviewed the proposed Chapter 17 changes and has recommended their approval; and

WHEREAS, the City has actively engaged the public to educate on both the current ordinance and the proposed changes; and

WHEREAS, the City Council held a public hearing on August 20, 2024 to receive public comment and direction on the proposed changes, and City staff have subsequently updated the proposed changes to incorporate said feedback; and

WHEREAS, the City Council of the City of Denton, finds that it is in the best interest of public health and safety to adopt amendments to Chapter 17 of the Denton Property Maintenance Code; NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. The following sections of Chapter 17 of the Denton Code of Ordinances are hereby amended as set forth in **Exhibit A**, which is attached and fully incorporated herein by reference:

1. Section 17-2. Definitions, adding new definitions, modifying existing definitions, and deleting Code Official.
2. Sections 17-142, 17-143, 17-144, 17-158, 17-167, and 17-168, amended to remove references to Code Official.
3. Section 17-3. Simplifying code enforcement officer's scope of action and process for inspecting property via inspection warrants; and incorporating state statute permitting City to regulate nuisances up to 5,000 feet outside of the city's limits.
4. Section 17-4. Relocating the existing penalty provision to a more useful location; updating and streamlining verbiage.
5. Section 17-21. Repealing this section to remove a subjective property maintenance standard.
6. Section 17-40. Adding prohibition of discarding yard waste into public streets or right of way.
7. Section 17-80. Removing a subjective property maintenance standard for perimeter fencing.
8. Section 17-101. Removing a property maintenance standard related to parking that is in conflict with the Denton Development Code.

SECTION 3. Code of Ordinances Ch. 17 Article. XIII. Buildings and Building Regulations. Division 3. Dangerous Structures is hereby repealed in its entirety and replaced with the Chapter 17, Article XIII. Buildings and Building Regulations. Division 3. Dangerous Structures shown in **Exhibit A**, which is attached and fully incorporated herein by reference.

SECTION 4. If any section, article, paragraph, sentence, phrase, clause, or word in this ordinance, or application thereof to any persons or circumstances, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; the City Council declares that it would have ordained such remaining portion despite such invalidity, and such remaining portion shall remain in full force and effect.

SECTION 5. All provisions of the ordinances of the City of Denton in conflict with the provision of this ordinance are hereby repealed. The repeal of any ordinance or any portion thereof by the preceding text shall not affect or impair any act done or right vested or accrued or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect and such shall remain in force for all intents and purposes as if such ordinance or part thereof so repealed shall remain in force.

SECTION 6. Any person violating any provision of this ordinance other than Chapter 17 Article XIII Buildings and Building Regulations, shall, upon conviction, be found guilty of a Class “C” misdemeanor and fined a sum not to exceed five hundred dollars (\$500.00) for each violation. Any person violating Chapter 17 Article XIII Buildings and Building Regulations shall, upon conviction, be found guilty of a Class “C” misdemeanor and fined a sum not to exceed two thousand dollars (\$2,000.00) for each violation.

SECTION 7. The City Secretary is hereby directed to record and publish the above regulations in the City's Code of Ordinances.

SECTION 8. Pursuant to Section 2.09(c) of the Charter for the City of Denton, this ordinance shall become effective January 1, 2025 and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record Chronicle, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

The motion to approve this Ordinance was made by Brian Beck and seconded by Vicki Byrd, the Ordinance was passed and approved by the following vote [7 - 0]:

Aye

Nay

Abstain

Absent

Mayor Gerard Hudspeth:	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Vicki Byrd, District 1:	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Brian Beck, District 2:	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, District 3:	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Joe Holland, District 4:	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Brandon Chase McGee, At Large Place 5:	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Jill Jester, At Large Place 6:	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

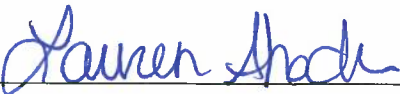
PASSED AND APPROVED this the 15th day of October, 2024.



 GERARD HUDSPETH, MAYOR

ATTEST:

LAUREN THODEN, CITY SECRETARY

BY:  _____



APPROVED AS TO LEGAL FORM:

MACK REINWAND, CITY ATTORNEY

BY:  _____

Exhibit A

Chapter 17 Property Maintenance Code

Amended Sections



Chapter 17 PROPERTY MAINTENANCE¹

ARTICLE I. IN GENERAL

Sec. 17-2. Definitions.

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

Appraised value means the value given the structure by the applicable county's tax assessor's office.

Approved means approved by the City of Denton Code Enforcement Officer .

Building means any structure of any kind or any part thereof, including a wall, slab, porch, foundation, the collapsed remains of a structure, or any other portion of a building, wall, or fence that was erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

Building official or their designee means the official charged with the administration and enforcement of this chapter.

Conviction (Convicted) means a final judgment of guilt, the granting of deferred adjudication or the entering of a plea of guilty or nolo contendere.

Chronic Offender means any person that has committed an offense under this chapter and who has two (2) or more previous Convictions for offenses under this chapter and at least two (2) of the violations: (a) have separate offense dates, (b) were located on or at the same property, and (c) occurred within the twenty-four (24) month period preceding the date of the offense committed.

Dangerous Structure means one found to be dangerous to the life, limb, health, property, safety, or welfare of the general public or the occupants of the building or structure by not providing the minimum safeguards to protect or warn occupants in the event of fire, or because such building or structure contains unsafe equipment, is in an unsafe or uninhabitable condition, or is so damaged, decayed, dilapidated, structurally unsafe, faultily constructed, or has an unstable foundation such that partial or complete collapse is possible, as defined in section 17-182.

Code enforcement officer means an officer employed by the city who engages in code enforcement to prevent detect, investigate, and enforce violations of laws regulating public nuisance, health, safety and welfare..

Demolish means to tear down, destroy, dismantle, or otherwise abolish the existence of a building or structure in a lawful manner and to remove all remaining pieces, parts, rubbish, and traces of the building or structure.

¹Editor's note(s)—Ord. No. 2010-132, § 1, adopted May 11, 2010, repealed the former Ch. 17, §§ 17-1—17-122, and enacted a new Ch. 17 as set out herein. The former Ch. 17 pertained to similar subject matter and derived from Ord. No. 2009-062, § 1, 3-3-09.

Diligent effort means best or reasonable effort to determine the identity and address of an Owner or Notice Party including a search of the following records:

- (1) County real property records of the county in which the building or structure is located.
- (2) Appraisal district records of the appraisal district in which the building or structure is located.
- (3) Records of the secretary of state.
- (4) Assumed name records of the county in which the building or structure is located; and
- (5) City utility and tax records.

Minimum housing standards means those standards found in the Denton Code of Ordinances Chapter 17, Article XIII, Division 2 Minimum Standards.

Notice Party(ties) means the Owner, lien holder, tenant, mortgage, or other party or entity with an interest in the property being noticed.

Securing means measures that assist in making the property inaccessible to unauthorized persons, including but not limited to the repairing of or boarding of door, window, or other openings. A building or structure is unsecured if, despite being boarded up or otherwise safeguarded, the methods used are insufficient to prevent unauthorized entry or use by non-owners, uninvited individuals, or children. Fencing is only included in this definition if it has been approved by the Building Official and is maintained in compliance with that approval.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or any part thereof, including a wall, slab, portion, foundation, or the collapsed remains of a structure.

Vacant means a building or structure, regardless of its structural condition, that is unoccupied by its owners, lessees, or other invitees and is unsecured against unauthorized entry to the extent that it could be entered or used by a non-owner or other uninvited persons as a place of harborage or could be entered or used by children.

(Ord. No. 2010-132, § 1, 5-11-10; Ord. No. 2011-132, § 1, 8-16-11; Ord. No. 2017-146, § 4a., b., 5-9-17)

Sec. 17-3. Enforcement.

- (a) Code Enforcement Officers of the City of Denton are hereby authorized and directed to enforce any violations of the Code of Ordinances as directed by the city manager. Code enforcement officers shall also have the authority to interpret these provisions and apply such interpretations to these provisions in the interest of public safety, health, and general welfare. Code enforcement officers shall not have the authority to waive structural, fire or sound engineering requirements relative to public safety.
- (b) Code enforcement officers shall make, or cause to be made all of the inspections required to enforce the provisions of the Code of Ordinances, as directed by the city manager pursuant to Chapter 19, Article IV, Inspections and Abatement Warrants.
- (c) Pursuant to Texas Local Government Code §217.042, the City may define and regulate nuisances within its municipal boundary and up to 5,000 feet outside of the city's municipal boundary. For the purposes of this provision, a nuisance is defined as:
 - (1) Nuisance as defined in 17-2.

(Ord. No. 2017-146, § 4i., 5-9-17; Ord. No. 2018-1531, § 2, 11-6-18)

Secs. 17-4 Penalties

- (a) A person who violates any provision of this article, shall, upon conviction by the municipal court, be punished as follows:
1. Any person violating any provision of Articles I through XII of chapter 17 of this Code is guilty of misdemeanor and upon Conviction , is punishable by a fine not to exceed five hundred dollars (\$500.00).
 2. Any Chronic Offender violating any provision of Articles I through XII of chapter 17 of this Code is guilty of misdemeanor and, upon Conviction, is punishable by a fine not less than three hundred dollars (\$300.00) and not to exceed five hundred dollars (\$500.00).
 3. Any person violating any provision of Article XIII of chapter 17 of this Code, upon Conviction, is punishable by a fine not to exceed two thousand dollars (\$2,000.00).
 4. Any Chronic Offender violating any provision of Article XIII of chapter 17 of this Code, upon Conviction, shall be fined a sum not less than five hundred dollars (\$500.00) and not to exceed two thousand dollars (\$2,000.00).
- (b) The city attorney is authorized to commence an action for appropriate legal or equitable relief in a court of competent jurisdiction. Such relief may include, without limitation:(1)An injunction to prevent a violation of this chapter;(2)Recovery for expenses incurred by the city in responding to a violation of this chapter;(3)A daily civil fine of up to the maximum provided by Texas Local Government Code 54.017(b) for a violation of Articles I through XIII; and all other damages, costs and remedies to which the city may be entitled.
1. Civil fines and penalties for health and safety violations of this chapter shall not exceed the maximum penalty generally authorized by V.T.C.A. Local Government Code § 54.017Chapter 54, as amended, or specifically authorized by any other statutory provision that may apply to such violations, whichever is greater.
 2. This chapter is cumulative of all other civil remedies provided by state law, including: money damages; injunction and other extraordinary relief; recovery of costs, expenses, and attorney fees; and such other remedies and mechanisms of enforcement that may be available or applicable to violations of the provisions herein.
 3. A culpable mental state is not an element of an offense described in this chapter if the punishment provided for that offense is a maximum fine of no more than \$500.

ARTICLE II. NOISE

Secs. 17-21—17-29. Reserved.

ARTICLE IV. GRASS, WEEDS AND OTHER VEGETATION

Sec. 17-40. Grass or weeds in excess of twelve (12) inches in height declared a nuisance and prohibited.

(k) Discarding of yard waste into the public street or right of way is prohibited.

(Ord. No. 2010-132, § 1, 5-11-10; Ord. No. 2011-132, § 1, 8-16-11)

ARTICLE VIII. FENCES

Sec. 17-80. Maintenance of perimeter fences.

- (a) An owner shall maintain all perimeter fences in sound structural condition.
- (b) All perimeter fences, including those existing prior to the adoption of this chapter, shall be maintained at all times in a state of good repair with no broken, loose, damaged, removed or missing parts, and in safe and secure condition with all braces, bolts, nails, supporting frame and fastenings free from deterioration, termite infestation, rot, rust or loosening, and able to withstand the wind pressure for which they were designed.
- (c) Perimeter fence repairs shall be made using the same material, or a very similar material with comparable composition, color, size, shape, and quality of the original fence to which the repair is being made.
- (d) If fifty (50) percent or more of the length of one (1) side of a perimeter fence that is made of nonpermitted material(s) is broken, damaged, removed, or missing parts, the entire length of said side of the fence shall be replaced in accordance with the requirements of the Denton Development Code.

However, it is a defense to prosecution if the perimeter fence to be replaced is barbed wire, razor wire, or electrified wire, if the fence is associated with a legally permitted agricultural or industrial use.

However, it is a defense to prosecution if the perimeter fence to be replaced is of chain link construction.

- (e) All areas between the fence or wall and the back of the curb, the edge of the street, or any adjacent property shall be maintained in a manner that is clear of trash and debris and high grass and weeds at all times.
- (f) It is a defense to prosecution under subsection (a), if an owner completely removes a fence which was in disrepair, provided that the owner is not required to keep a fence pursuant to any other law or regulation.
- (g) All nonperimeter fences that can be viewed from a public right-of-way and whose ownership has been clearly determined must comply with the provisions as outlined for perimeter fences in subsections (a) through (g) above.

(Ord. No. 2010-132, § 1, 5-11-10)

Sec. 17-101. Parking nuisances.

- (a) *Parking regulations.* It is a nuisance and shall be deemed illegal for any person to park in violation of the following provisions:
 - (1) It shall be unlawful for a person to park or store or allow another to park or store a vehicle in the front, side, or rear yard of any property upon any surface other than an improved parking surface.

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- (2) See the Denton Development Code and the Transportation Criteria Manual for allowed materials and construction specifications for parking surfaces for properties other than single-family homes and duplex dwellings.
 - (3) Single-family homes and duplex dwellings may use gravel for existing dirt driveways, excavated and poured to a four-inch depth and bordered to create a parking surface level with the existing driveway.
 - (4) Single-family homes and duplex dwellings that have existing concrete, parallel parking ribbons may maintain said as improved parking surfaces as long as said concrete surfaces are maintained in good and safe condition. Any improved surfaces added for the purpose of parking vehicles shall be attached in a parallel fashion to the existing parking surface and shall be constructed in the same manner and of the same material as the existing parking surface.
 - (5) For single-family homes and duplex dwellings, if no improved side or rear yard parking surface exists which to attach an added improved parking surface, the vehicle may be placed in the side or rear yard provided that the vehicle is concealed from view from all points along streets and alleys by a solid, opaque fence or wall providing full screening from the ground to a minimum height of six (6) feet, or stored in an enclosed structure. Any fencing must be in compliance with the Denton Development Code and all applicable ordinances and laws regarding fencing. See the Denton Development Code for accessory structure regulations.
 - (6) Vehicles screened as provided for in subsection 17-101(a)(6) may forgo the improved parking surface requirement in subsection (1).
 - (7) Added parking surfaces shall not be located within an easement or right-of-way, or obscure any sight visibility line or sight visibility triangle.
 - (8) It shall be unlawful for any person to park any vehicle or store any objects, items, or personal property in or upon any right-of-way.
 - (9) This section shall not apply to a vehicle legally parked on a public street or highway. For the purposes of this section, a right-of-way shall include:
 - a. The entire width of all public streets and highways including any shoulders of these roadways;
 - b. The entire width of any alleys; and
 - c. All other public easements, including any easements running adjacent to any public roadways and alleys.
 - (10) It shall be unlawful for any person to park or store or allow another to park or store a vehicle on any surface on any unimproved lot, easement, or right-of-way.
 - (11) It shall be unlawful to use a vehicle for living or sleeping quarters, or for the storage of trash, debris or personal property not normally associated with the vehicle.
 - (12) Residential properties with homesteads that exceed two (2) acres may have operable agricultural equipment, two (2) of which may be trailers, parked on an unimproved surface. The surface must be located one hundred fifty (150) feet from the street and adjacent properties and behind the front building line. Additionally, the agricultural equipment may not be parked on any easement or right-of-way. Agricultural equipment is equipment used for farming operations that is not required to be registered by the State of Texas.

ARTICLE XIII. BUILDINGS AND BUILDING REGULATIONS

Subpart A - CODE OF ORDINANCES
Chapter 17 - PROPERTY MAINTENANCE
ARTICLE XIII. - BUILDINGS AND BUILDING REGULATIONS
DIVISION 1. GENERALLY

DIVISION 1. GENERALLY

Sec. 17-142. Applicability.

General. In the event of a specific case where any section of this chapter specifies different requirements from any other ordinance or code, the most restrictive shall apply.

- (a) *Application of other codes.* Any and all changes of occupancy, alterations, additions, or repairs to any structure shall be performed in accordance with the procedures and provisions of the codes referenced in section 17-1(e), all as currently adopted and amended by the city council.
- (b) *Existing remedies.* This ordinance shall not eliminate or impede any existing remedies of the city, or its officers, or other agencies as to the removal or demolition of any structure deemed dangerous, unsafe and/or unsanitary.
- (c) *Workmanship.* Repairs, maintenance, alterations, or installations shall be performed and installed in accordance with the manufacturer's installation instructions and in a workman-like manner in those cases in which the work performed is the result of the enforcement of this chapter.
- (d) *Historic buildings.* Buildings or structures designated as historic by the State of Texas or by the Federal Government, and deemed safe by the Building Official, shall be exempt from the provisions of this chapter.

In accordance with the Denton Development Code, application shall be made to the city historic landmark commission (HLC) for a certificate of appropriateness prior to the commencement of any exterior alteration or repairs of a structure that is located within a historic overlay district or is legally designated as a historic building.

(Ord. No. 2010-132, § 1, 5-11-10)

Sec. 17-143. Substandard structure program.

The substandard structure program is hereby created and shall be administered by the City Manager's delegee. =

(Ord. No. 2010-132, § 1, 5-11-10)

Sec. 17-144. Enforcement.

The Code Enforcement Officer is hereby authorized and directed to enforce all of the provisions of this article. The Code Enforcement Officer shall also have the authority to interpret this article and apply such interpretation to provisions of this chapter in the interest of public safety, health and general welfare. The Code Enforcement Officer shall not have the authority to waive structural or fire performance requirements nor shall he make exceptions which clearly violate accepted engineering principles relative to public safety.

- (a) The Code Enforcement Officer shall keep all official records relating to the provisions of this article. Such records shall be kept in the official records as long as required by city, state and/or federal government regulations.

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- (b) *Inspections.* The Building Official, or Code Enforcement Officer, as necessary shall make, or cause to be made, all of the inspections required to enforce the provisions of this article, and chapter 28 of the Code. The Building Official, or Code Enforcement Officer may accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official, or Code Enforcement Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.
- (c) *Right of entry.* Whenever necessary to make an inspection to enforce any of the provisions of this article or whenever the Building Official, or Code Enforcement Officer has reasonable cause to believe that there exists in any structure or upon any premises any condition or violation which makes such structure or premises unsafe, dangerous, or hazardous, the Building Official, or Code Enforcement Officer, as authorized by law, may enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official, or Code Enforcement Officer by this article, and chapter 28 of the Code. If such structure or premises is occupied, he shall first present proper credentials and request entry, and if such structure or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having care or control of the structure or premises and request entry. If such entry is refused, the Building Official, or Code Enforcement Officer shall have recourse to every remedy provided by law to secure entry.
- (d) *Responsibilities of owner.*
- (1) An owner of a property remains liable for violations of this article, and chapter 28 of the Code regardless of any agreement between the owner and any other party that imposes or attempts to delegate responsibility for the premises to the other party.
 - (2) The owner of a premises which is substandard or dangerous commits an offense.
- (e) *Violations.* It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done or exist on property or premises in violation of this article and chapters 28 and 29 of the Code.
- (1) It shall be unlawful for an owner of any premises to be in violation of any provisions of this chapter.
 - (2) It shall be unlawful for an owner or occupant of a single family or multi-family or duplex dwelling to occupy, or allow occupation of any structure or building that has been placarded as substandard or dangerous by the city.
 - (3) It is a violation for any person to deface or remove an official city placard without the approval of the Code Enforcement Officer .
 - (4) The Code Enforcement Officer shall serve a notice of violation or order in accordance with this chapter.
 - (5) The Code Enforcement Officer shall issue all necessary notices or orders to ensure compliance with this chapter.
 - (6) In addition to imposing a criminal penalty, the city shall have the power to enforce any provision of this article, V.T.C.A. Local Government Code Ch. 214, and V.T.C.A. Local Government Code Ch. 54, Subchs. B and C. No enforcement remedy shall be exclusive of any other remedy the city may have under state law or city ordinances.
- (f) *Notice of violation.* Notices shall:
- (1) Be in writing.

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- (2) Include a legal description of the real estate sufficient for identification.
 - (3) Include a statement of the violation or violations.
 - (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit, structure, or property into compliance with the provisions of this article and chapter 28 of the Code.
 - (5) Include a statement of the city's right to file a lien on the property in accordance with this article.
 - (g) *Method of service.* Notice issued under this section is properly served if:
 - (1) Delivered personally;
 - (2) Sent by certified or first-class mail addressed to the last known address; or
 - (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place on or about the building or structure affected by such notice for a period of not less than ten (10) days.
 - (h) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the city from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(Ord. No. 2010-132, § 1, 5-11-10)

Sec. 17-145. Buildings declared public nuisances.

All buildings or portions thereof which are determined to be substandard or dangerous as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this article or in an order issued by the Health and Building Standards Commission of the City of Denton.

(Ord. No. 2010-132, § 1, 5-11-10)

Sec. 17-146. Approval.

- (a) *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this article, the building official shall have the authority to grant modifications for individual cases, provided the building official shall first find that special individual reason makes the strict letter of this article impractical, and the modification is in compliance with the intent and purpose of this article, and that such modification does not lessen health, life, and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.
- (b) *Alternative materials, methods and equipment.* The provisions of this article are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this article or chapter 28 of the Code, provided that any such alternative has been approved in advance by the building official. An alternative material or method of construction may be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this article or chapter 28 of the Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this article or chapter 28 of the Code in quality, strength, effectiveness, fire resistance, durability and safety.

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- (c) *Required testing.* Whenever there is insufficient evidence of compliance with the provisions of this article or chapter 28 of the Code, or evidence that a material or method does not conform to the requirements of this article or chapter 28 of the Code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests to be made as evidence of compliance at no expense to the city.
- (1) Test methods shall be as specified in this article or chapter 28 of the Code, or by other industry recognized test standards. In the absence of recognized and accepted test methods, the building official shall be permitted to approve appropriate testing procedures performed by an approved agency.
- (2) Reports of tests shall be retained by the building official for the period required for retention of public records.
- (d) *Material and equipment reuse.* Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.
- (Ord. No. 2010-132, § 1, 5-11-10)

Secs. 17-147—17-149. Reserved.

DIVISION 2. MINIMUM STANDARDS

Sec. 17-158. Ventilation.

- (a) *Habitable spaces.* Every habitable space shall have at least one (1) openable window. The total openable area of the window in every room shall be equal to at least forty-five (45) percent of the minimum glazed area required in section 17-157(a). Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight (8) percent on the floor area of the interior room or space, but not less than twenty-five (25) square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.
- (b) *Bathrooms and toilet rooms.* Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by section 17-158(a), except that a window shall not be required if equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors, and shall not be recirculated.
- (c) *Cooking facilities.* All rooms and other enclosed spaces shall be ventilated in a manner sufficient to keep them free of excessive heat, steam, condensation, vapors, offensive odors, smoke, and fumes. Further, habitable spaces may not be used as cooking facilities, unless:
- (1) Approved through a certificate of occupancy;
- (2) Approved in writing by the Building Official ; or
- (3) Only allowable devices are being used. Coffee pots and microwaves are not considered cooking appliances.
- (d) *Process ventilation.* Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

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- (e) *Clothes dryer exhaust.* Dryer exhaust systems shall be independent of all other ventilation systems, and shall convey the moisture to the outdoors, unless ductless, condensing clothes dryers are installed. Intake and exhaust air ducts shall be maintained in such a manner as to prevent the entrance of dust, dirt, and any other contaminating materials.

(Ord. No. 2010-132, § 1, 5-11-10)

Sec. 17-167. Mechanical equipment.

- (a) *Mechanical appliances.* All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.
- (b) *Removal of combustion products.* All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. Fuel-burning equipment and appliances which are labeled for unvented operation are excepted from this requirement.
- (c) *Clearances.* All fuel burning equipment shall be provided and maintained with all required clearances to combustible materials, as required by chapters 28 and 29, and by manufacturer specifications.
- (d) *Safety controls.* All safety controls for fuel-burning equipment shall be maintained in effective operation.
- (e) *Combustion air.* A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.
- (f) *Additional devices.* Any modification or connection of additional devices to a fuel burning appliance, its fuel supply, or its venting system shall be made using products that are listed and labeled for the specific application and shall be specifically approved by the Building Official .

(Ord. No. 2010-132, § 1, 5-11-10)

Sec. 17-168. Electrical facilities.

Every structure provided with an electrical system shall be maintained in safe operating condition, and compliant with the requirements of this article and all other adopted codes of the City of Denton.

- (a) *Electrical service.* The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electric Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than sixty (60) amperes, or other service approved by the Building Official .
- (b) *Electrical system hazards.* Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Building Official shall require the defects to be corrected to eliminate the hazard.

(Ord. No. 2010-132, § 1, 5-11-10)

DIVISION 3. DANGEROUS STRUCTURES

Sec. 17-180. Purpose.

This Division is adopted so that the city council may promote public health, safety, and general welfare within the city through the proper securing of vacant structures and the regulation of dangerous structures. By requiring the securing of vacant structures and the repair, removal, and/or demolition of dangerous structures, the city council seeks to protect property values and prevent bodily injury, death, and property damage within the city limits.

Sec. 17-181. Securing vacant structures.

(a) Owners must Secure all Vacant Structures, including dwellings units, dwellings, principal buildings, pools or spas, and accessory buildings.

(1) All openings of a Vacant Structure, including doors, windows, and other openings at ground level, accessible to grade by stairs or fixed ladders, or are located within ten feet of grade must be Secured.

(2) The Building Official may order an Owner to board additional areas of a Vacant Structure to ensure compliance with this section.

(3) The Owner of a structure boarded under this section shall notify the Building Official in writing no later than ten days after the sale of the structure or the unboarding of the property.

(b) In all cases where a building or structure constitutes a nuisance to the general public because it is vacant and open to unauthorized entry, the Building Official may notify the Owner to secure the building or structure within 72 hours. In the event the Owner fails to secure the Vacant Structure in that time, the Building Official is authorized to secure the Vacant Structure and costs of this work shall be recovered as provided in Section 17-192 Assessment of Lien.

(c) Alternatives to boarding. The Building Official may determine if a method such as fencing is better suited to properly secure the structure.

Sec. 17-182. Application of standards.

The Commission is authorized to find that a structure is a dangerous structure if:

(1) The building or structure was constructed or maintained in violation of any provision of the city's building codes, fire code or any other applicable ordinance or law of the city, county, state, or federal government and such violation renders the building or structure dangerous to the life, limb, health, property, safety, or welfare of the general public or the occupants of the building or structure.

(2) Any wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third of its base.

(3) The foundation or the vertical or horizontal supporting members are so damaged or deteriorated as to create a hazard or safety concern.

(4) The nonsupporting coverings of walls, ceilings, roofs, or floors are so damaged or deteriorated as to create a hazard or safety concern.

(5) The structure has improperly distributed loads upon the structural members, or they have insufficient strength to be reasonably safe for the purpose used.

(6) The structure or any part thereof has been damaged by fire, water, earthquake, wind, tornado, vandalism, or other causes to such an extent that it has become dangerous to the public health, safety and welfare.

(7) A portion of a building or structure remains on a site when construction or demolition work is abandoned.

(8) A door, aisle, passageway, stairway, fire escape or other means of egress is not of sufficient width or size, or is damaged, dilapidated, obstructed or otherwise unusable, or so arranged so as not to provide safe and adequate means of egress in case of emergency or need.

(9) The structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the city's citizens including but not limited to all conditions conducive to the harboring of rats or mice or other disease carrying animals or insects reasonably known to spread disease.

(10) The structure has been found to contain visually apparent mold growth of greater than 100 square feet in the dwelling unit and will require demolition if the remediation of such mold growth would exceed 50 percent of the value of the structure.

(11) Whenever the building or structure has been so damaged by fire, wind, tornado, earthquake, or flood, or has become so dilapidated or deteriorated as to become:

- a. An attractive nuisance to children.
- b. A harbor for unauthorized occupants, criminals, or trespassers; or as to
- c. Enable persons to resort thereto for the purpose of committing unlawful acts.

(12) A portion of the building or member or appurtenance thereof (e.g., porch, chimney, signs) is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(13) The building or structure has any portion, member or appurtenance, ornamentation on the exterior thereof which is not of sufficient strength or stability, or is not so anchored, attached or fastened in place to be capable of safely resisting wind pressure, snow, ice, or other loads.

(14) The electrical system, plumbing system, or mechanical system is totally or partially damaged, destroyed, removed, or otherwise made inoperable, unsafe, hazardous, or unsanitary.

(15) The building or structure has been determined to be vacant, using the following factors: the percentage of overall square footage of any building on the property or floor to the occupied space, the condition and value of any items in the property and the presence of rental or for sale signs on the property; provided that multi-family residential property containing three or more dwelling units shall be considered vacant when the majority of all of the dwelling units become unoccupied and a majority remain unoccupied. A property shall not be considered vacant which is being currently marketed by the Owner or a licensed real estate professional hired by the former or current occupant of the property, and to which the water service has not been shut off.

Sec. 17-183. Inspections.

An inspection shall be made of any building or structure located within the city which is suspected of being in violation of this article. The city's Building Official is hereby authorized to conduct inspections of buildings or structures suspected of being in violation of this article and take such actions as may be required to enforce the provisions of this article. If the city's Building Official, believe that a structure is dangerous, as described and defined herein below, they shall provide the notice and schedule a hearing before the Commission, as described herein.

Sec. 17-184. Notice of violation.

(a) Whenever the Building Official believes that a structure violates this article, a public hearing by the Commission shall be provided to determine whether the building or structure should be declared a dangerous building or structure.

(b) A notice of the violation shall be sent to the Notice Parties. Such notice shall be in writing and shall be served by personal delivery or by certified mail, return receipt requested. Notice to the occupant of the property does not require the occupant's name.

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- (c) The city shall make a Diligent Effort to discover each mortgagee and lien holder before issuing notice of the hearing.
- (d) Notice shall be served to all unknown owners, lien holders, or mortgagees, by posting a copy of the notice on the front door of each affected structural improvement situated on the property and as close to the front door as practicable.
- (e) If the owner's current address is different than the structure to be reviewed by the Commission, notice shall be served to the owner's current address. Service of this notice may be accomplished by personal delivery or by certified mail, return receipt requested.
- (f) The notice of violation shall be filed in the official public records of real property in the county in which the property is located.
- (g) The notice shall contain:
- (1) The name and address of the owner of the property.
 - (2) The names of all persons to whom notice is being served.
 - (3) The street address and legal description of the premises.
 - (4) The date of inspection.
 - (5) The nature of the violation.
 - (6) The date, time, and location of the hearing; and
 - (7) A statement that the owner, lien holder, or mortgagee will be required to submit at the public hearing proof of the scope of any work that may be required to comply with the city's building ordinances and fire code and the time it will take to reasonably perform the work.
- (h) After all attempts to notify owners, lien holders and mortgagees under this article have been made and documented, any refusal to accept or claim hand-delivered, mailed, or posted notice will not affect the validity of the notice.

Sec. 17-185. Emergencies.

(a) Emergency defined.

For the purpose of this article, an emergency is hereby defined as any case where it reasonably appears there is immediate danger to the health, life, safety or welfare of any person because of a dangerous condition which exists in violation of this article.

(b) Authority.

In any emergency case, the Building Official shall have the power to issue an emergency order and to take emergency measures to abate or to correct such dangerous condition. The emergency power herein granted shall include power to cause the immediate vacation of any building or structures and the summary correction of any emergency condition which exists in violation of this article, including but not limited to demolition of dangerous building or structures. Emergency demolition shall be reserved for dangerous conditions which, in the Building Official's determination, cannot be abated or corrected in any other manner.

(c) Emergency order not appealable.

No appeal to the Commission shall lie from an emergency order, and such order shall not be reviewed or stayed other than by the district court of the county in which the premises or structure is located on which the emergency condition exists.

(d) Costs of abatement.

The costs of emergency abatement shall be recovered as provided in section 17-192 Assessment of lien of this article for the recovery of costs.

Sec. 17-186. Hearing.

- (a) To determine if a structure is dangerous, there shall be a public hearing scheduled with the Commission. The date of the hearing shall not be less than ten days after notice is made, as described in section 17-186.
- (b) If at the public hearing evidence is provided that a dangerous structure exists, the city shall require the owner, lien holder, or mortgagee of the building or structure to repair, remove, or demolish the building within 30 days, unless it is proven at the hearing that the work cannot reasonably be done in 30 days.
- (c) If the Commission allows more than 30 days for the building or structure to be repaired, removed, or demolished, the Commission shall establish specific time schedules for the work to be commenced and finished and shall require the owner, lien holder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Building Official.
- (d) The Commission shall not allow the owner, lien holder or mortgagee more than 90 days to repair, remove, or demolish the building or structure unless a detailed plan and time scheduled for the work are submitted at the hearing and it is proven at the hearing that the work cannot reasonably be completed within 90 days. Additionally, the owner, lien holder, or mortgagee must submit work progress reports every 30 days to demonstrate compliance with the time schedule established.
- (e) In any case where the Commission finds that 50 percent or more of the value of the building or structure is damaged or deteriorated, a building or structure may be demolished or removed, and in all cases where a building or structure cannot be repaired so that it will no longer exist in violation of the provisions of this article, it shall be demolished or removed.

Sec. 17-187 Contents of Order.

- (1) The Commission shall issue an order containing its findings. Such orders shall contain the following:
 - (a) A statement whether the Commission affirms or denies the enforcing official's recommendation to deem the structure dangerous.
 - (b) A statement regarding whether the order is to repair, remove, or demolish the structure.
 - (c) A statement regarding the time allowed to complete the required work.
 - (d) Include a statement of the city's right to file a lien.
 - (e) Include statements advising that if any required repair or demolition work is not commenced within the time specified, the Building Official may order the building or structure vacated and placarded to prevent further occupancy until the work is completed.

It shall be unlawful for any person to enter any structure marked by such placard, except for persons authorized by the owner to enter for the purpose of securing the structure or making the required repairs therein under permit, and inspectors of the City of Denton. Such placard shall remain on the structure until it is repaired or demolished, or until removed by the Building Official or in the event an appeal results in the Commission declaring the property is no longer a dangerous structure or public nuisance.

Sec. 17-188. Appeal.

In accordance with V.T.C.A., Local Government Code sec. 214.0012, the owner, lien holder, or mortgagee shall have the right to appeal the decision made at the hearing to a district court. A notice of appeal must be filed with the district court within 30 calendar days from the date the order is mailed to the owner, lien holder or mortgagee, as provided herein. The petitioner shall provide the city with evidence that an appeal has been made to district court within 30 days by sending a copy of the notice of appeal to the City Attorney's attention at 215 E. McKinney Street, Suite 100, Denton TX.

Sec. 17-189. Notice of repair, removal, or demolition.

(a) If the building or structure is ordered to be repaired, removed, or demolished, the city shall promptly mail a copy of the order by certified mail, return receipt requested, to the owner of the building or structure and to any lien holder or mortgagee of the building or structure.

(b) Within ten days after the date that the order is issued, the city shall:

- (1) File a copy of the order in the office of the city secretary; and
- (2) Publish a notice in a newspaper where the building or structure is located stating:
 - a. The street address or legal description of the property;
 - b. The date of the hearing;
 - c. A brief statement indicating the results of the order; and
 - d. Instructions as to where a complete copy of the order may be obtained.

(c) If demolition or removal of the building or structure is ordered, demolition or removal shall not occur until the municipal court judge has issued a seizure and demolition warrant supported by a probable cause affidavit stating that:

- (1) The city has complied with the procedures set forth in this article;
- (2) Demolition has been ordered by the city; and
- (3) The time for appeal of the order to district court has expired and no appeal has been taken or, in the alternative, the order was appealed to district court but the appeal has been finally resolved in a manner that does not prevent the city from proceeding with removal or demolition.

Sec. 17-190. Post Determination Actions.

Whenever it is discovered upon reinspection that the owner, mortgagee or lien holder has failed to either repair, remove, or demolish the building or structure within the allotted time, the city, or its authorized agent may:

(a) Cause to be posted at each entrance to such building or structure a placard including, but not limited to, the following language:

"Do Not Enter, Unsafe to Occupy. It shall be unlawful for any person to enter such structure except for persons authorized by the owner to enter for the purpose of securing the structure, making the required repairs therein under permit and under inspection by inspectors of the City of Denton. This notice shall remain on this building or structure until it is repaired or demolished."

(b) Initiate termination of utility service by sending written notice to the Owner(s), tenants, and occupants of the scheduled termination date.

Sec. 17-191. Dangerous declaration.

If the Commission finds that a structure qualifies as a dangerous structure, as defined and described herein, such structure shall automatically be deemed to be a danger to the public health and welfare, a public nuisance, and in violation of this article. Compliance is required with any orders issued by the Commission relating to the repair, removal, or demolition of the dangerous structure.

Sec. 17-192 Demolition, removal, and repair expenses.

(a) Whenever it is discovered upon reinspection that the owner, mortgagee, or lien holder has failed to either repair, remove, or demolish the building or structure within the allotted time, the city, or its authorized agent may repair, remove, or demolish said building or structure or cause the same to be done and charge the expenses incurred to the landowner. The landowner will have 30 days to reimburse the city from the completion date of such work to abate the violation(s) at the property.

(b) In the event the Owner fails or refuses to pay such expenses charged to the Owner, within 30 days after the abatement work is completed, a lien may be obtained. The lien and other expenses incurred by the City of Denton may be filed against the property. Expenses will include, but not be limited to, an administrative fee, fees to file lien, fees to release lien, postage fees, courier fees, legal fees, and any other fees charged to the City of Denton.

(c) If the demolition work is done at the expense of the city, the city shall have the right to sell the salvage and any valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, to the person who is entitled thereto. If such a surplus does not remain to be turned over, the report shall so state.

(d) For the purposes of this section, any repair, alteration or improvement made to a building or structure by the city will only be to the extent necessary to bring the building or structure into compliance with the city's minimum building and fire code standards and only if the building is a residential building with ten or fewer dwelling units; provided however, the city may elect to obtain a judicial determination by a decree of a court of competent jurisdiction of the existence, in fact, of a public nuisance in cases contemplated by this article. Such judicial determination may include any available remedy for the abatement of such a nuisance.

Sec. 17-193. Assessment of lien.

(a)

When the city incurs expenses to repair, remove, or demolish a building or structure under this article, the city places a lien against the property on which the building or structure is located, unless it is a homestead as protected by the Texas Constitution. The lien arises and attaches to the property when the notice of the lien is recorded and indexed with the county clerk of Denton County, Texas. The notice shall contain:

- (1) The name and address of the owner if that information can be determined with a reasonable effort.
- (2) A legal description of the property on which the building or structure was located.
- (3) The amount of expense incurred by the city.
- (4) The balance due; and
- (5) The date on which said work was done or improvements made.

(b) The city shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building or structure was located, to secure the expenditure so made, which said liens shall be second only to tax liens and liens for street improvements; and said amount shall bear ten percent interest from the date such statement was filed. It is further provided that for any such expenditure and interest, as

aforesaid, suit may be instituted and recovered, and foreclosure of said lien may be made in the name of the city; and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or expense.

(c) The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses.

(Ord. No. 2010-132, § 1, 5-11-10)