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Ordinance: 6471

File Number: 2021-0466

AMEND CHAPTER 173 BUILDING REGULATIONS:

AN ORDINANCE TO AMEND CHAPTER 173 **BUILDING REGULATIONS** OF THE FAYETTEVILLE UNIFIED DEVELOPMENT CODE TO ALIGN THE CITY'S BUILDING REGULATIONS WITH BUILDING CODES ADOPTED BY THE STATE OF ARKANSAS; TO AUTHORIZE PROSECUTION OF VIOLATIONS OF § 173.08 **UNSAFE BUILDINGS AND PROPERTY NUISANCES**; AND TO ADOPT THE INTERNATIONAL PROPERTY MAINTENANCE CODE

WHEREAS, Chapter 173 **Building Regulations** has not been substantially revised in more than twenty years and is in need of updating and general housekeeping; and

WHEREAS, the proposed revisions are an attempt to align City ordinances with current building codes where possible, eliminate unnecessary requirements that have little impact on the quality of the built environment within the City, and improve the ability of City staff to enforce Chapter 173; and

WHEREAS, the Standard Housing Code, which was adopted by § 173.10 of the Unified Development Code is outdated and should be replaced by the International Property Maintenance Code; and

WHEREAS, pursuant to Ark. Code Ann. § 14-55-207, the City may adopt by ordinance technical codes, regulations, or standards without including the full text of the regulations in the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 173.02

Fire Prevention Code/Building Code by adding the following language immediately after the last sentence of subsection (C) *Amendments, Additions, and Deletions to the Fire Prevention Code* as follows:

“The following, as defined by Fire Prevention and Building Codes, shall be exempt from this provision:

- (1) Airport Control Tower
- (2) Open Parking Decks
- (3) F-2 Occupancy

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (A) of §173.07 **Energy Conservation Code** and enacts a replacement (A) as follows:

“(A) *Commercial and High-Rise Residential*. The most current Arkansas Energy Code as promulgated by the State of Arkansas is adopted as applicable to all new building construction for commercial and high-rise residential structures.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby repeals the introductory paragraph of subsection (B) of §173.07 **Energy Conservation Code** and enacts a replacement introductory paragraph as follows:

“*Residential*. The most current International Energy Conservation Code (IECC) as promulgated by the State of Arkansas is adopted as applicable to all new residential structures, with the exception of § 107 Fees and § 109 Board of Appeals.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §173.07 (B)(1), (B)(3), and (B)(6)(b) by striking the references to 2009 and 2011.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsections (B) and (C) of § 173.08 **Unsafe Buildings and Property Nuisances** and enacts a new (B) and (C) as follows:

“(B) *Property Nuisances*. If the Building Official determines that a property owner is violation of any of the provisions or requirements set out in the International Property Maintenance Code, the Building Official shall serve the owner in person or by certified mail and posting upon the property the written notice stating the suspected violation and setting a reasonable time limit for the owner to correct the violation. Further notice procedures may need to be undertaken if actual notice to the owner has not been achieved. If the owner does not properly and completely resolve and correct the violations noted in the letter notice within the prescribed time limit (plus any time extensions allowed by the Building Official for the owner’s substantial progress in correcting the violations), the Building Official may

proceed to the abatement procedures of subsection (C) below.

(C) Abatement Procedures for Unsafe Buildings and Property Nuisances; Raze and Removal and Lien Authorized.

- (1) City Prosecution Authorized. If the efforts of the Code Compliance Program for abatement of Unsafe Buildings and Property Nuisances have proven unsatisfactory, the Building Official may forward the matter for prosecution to the City Prosecutor.
- (2) Raze and Removal Order by the City Council. The Building Official may also refer an uncorrected violation to the City Council which may schedule a due process public hearing to determine whether or not the subject building is a property nuisance pursuant to International Property Maintenance Code and/or other Codes adopted in the *Unified Development Code* or is otherwise unsafe, dilapidated, unsanitary or a detriment to the public welfare. Upon the City Council's determination that the subject building is so unsafe, dilapidated, or unsanitary or such a nuisance that its raze and removal is necessary to protect the public health, safety, or welfare of Fayetteville citizens and residents, the City Council may by resolution order the owner of the building to either completely abate the nuisance or raze and remove the unsafe or nuisance building within a period of not less than thirty (30) days.
- (3) Lien on the Property. If the owner fails to comply with the Resolution to completely abate this nuisance or to raze and remove the unsafe or nuisance building within the allowed period of time, the City of Fayetteville has the power and authority to raze and remove the unsafe or nuisance building. If the City of Fayetteville razes and removes the unsafe or nuisance building, the City Council shall hold a due process public hearing to determine the fair and true costs to the city for this raze and removal and may place a lien in that amount upon the subject property to be enforced pursuant to the lien enforcement procedures of §95.03 of the *Fayetteville Code*.
- (4) The remedies contained in this subsection are not mutually exclusive. The building official may refer the same matter to both the City Prosecutor and the City Council."

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 173.10 **Standard Housing Code** and enacts a new § 173.10 **International Property Maintenance Code** as follows:

"173.10 - International Property Maintenance Code

(A) *Adoption by Reference.* There is hereby adopted by the City Council, by reference thereto, the

provisions set forth in the *International Property Maintenance Code*, with state adopted appendices, as may from time to time hereafter be amended and adopted by the State of Arkansas, save and except such portions of said code as may be deleted, modified, or amended herein.

(B) *Amendments, additions, and deletions to the International Property Maintenance Code.* The *International Property Maintenance Code*, shall be amended as follows:

- (1) The Construction Board of Adjustments and Appeals shall perform those duties of the board of appeals as set forth in Section 111, *International Property Maintenance Code*.
- (2) The Housing Official shall be known as the Building Official.”

PASSED and APPROVED on 9/7/2021

Approved:


Lioneld Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer

