

ORDINANCE NO. 80-771

AN ORDINANCE TO AMEND CHAPTER 28 OF THE CODE OF ORDINANCES
RELATING TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE

THE CITY OF WARREN ORDAINS:

SECTION 1. That Chapter 28, Article I, Section 28-1 of the Code of Ordinances
of the City of Warren, Michigan,

WHICH PRESENTLY READS AS FOLLOWS:

Sec. 28-1. - Adoption and incorporation of the International Property Maintenance Code.

Pursuant to the authority set forth in the Home Rules Cities Act, Public Act 279 of 1909, found at MCL 117.3(k), the International Property Maintenance Code, 2009, promulgated and published by the International Code Council, is hereby adopted by reference and incorporated into this chapter as if fully set forth in this section with certain insertions, deletions and amendments set forth in section 28-2 of this article. The International Property Maintenance Code, 2009, is adopted and incorporated to regulate the condition and maintenance of all premises, including residential and non-residential buildings and structures by providing the standards essential to ensure that structures and premises are safe, sanitary and fit for occupation and use. The International Property Maintenance Code, 2009, is on file and available for inspection at the office of the city clerk.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 28-1. - Adoption and incorporation of the International Property Maintenance Code.

Pursuant to the Home Rules Cities Act, Public Act 279 of 1909, MCL 117.3(k) as amended, the International Property Maintenance Code, as amended, is adopted by reference and incorporated into this chapter as if fully set forth in this section with certain insertions, deletions and amendments as listed in section 28-2 of this article. The International Property Maintenance Code is adopted to regulate the condition and maintenance of all premises, including residential and non-residential buildings and structures by providing the standards essential to ensure that structures and premises are safe, sanitary and fit for occupation and use. The International Property Maintenance Code, is on file and available for inspection at the office of the city clerk.

SECTION 2. That Chapter 28, Article I, Section 28-2 of the Code of Ordinances
of the City of Warren, Michigan,

WHICH PRESENTLY READS AS FOLLOWS:

Sec. 28-2. - Additions, insertions, and amendments.

The International Property Maintenance Code as adopted by reference and incorporated into section 28-1 is hereby amended to read as follows:

(a) *Section 101.1.* Insert: The City of Warren.

(b) *Section 103.1* is hereby amended to read as follows:

General. The department of property maintenance inspection is hereby created and the executive official in charge shall be known as the code enforcement officer. This is an independent department of city government created pursuant to Sec. 7.26 of the City Charter. The total budget of the service division shall become the budget of this department on the effective date of this ordinance.

(c) *Section 103.5* is hereby amended to read as follows:

Fees. Inspection fees shall be collected by the Department of Property Maintenance in accordance with fee schedule established by Resolution of the City Council.

(d) *Section 104.1* is hereby amended to read as follows:

General. The code enforcement officer shall enforce the provisions of this code. References to code official shall mean code enforcement officer or inspector as authorized to enforce the code as set forth in Section 1-11 of the Code of Ordinances.

(e) *Section 104.5* is hereby amended to read as follows:

Notices and orders. When the code enforcement officer or inspector has reason to believe that violations of the International Property Maintenance Code exist, a Notice of Inspection Required shall be posted on the premises to notify the property owner that inspections shall be conducted pursuant to the provisions of section 104.2 and 104.3 of the Code.

(f) *Section 106.2* is hereby amended to read as follows:

Notice of violation. The code enforcement officer or inspector shall comply with all provisions of Chapter 1 of the Code of Ordinances in the issuance and service of a municipal civil infraction citation.

(g) *Section 106.4* is hereby amended to read as follows:

Violation penalties. Except if there is an administrative hearings officer vacancy as described in chapter 2.5, section 2.5-4(d), the violation of a provision of this chapter is a blight violation. The administrative hearings bureau shall punish a violator found responsible for a blight violation as provided in Warren Code of Ordinances, chapter 2.5, section 2.5-7.

(h) *Section 106.6* is hereby added to read as follows:

Schedule of fines. The City Council shall establish by resolution a schedule of fines for municipal civil infraction violations of the International Property Maintenance Code that are payable and shall be collected by the 37th District Court.

- (i) *Section 107.3* shall be stricken in its entirety.
- (j) *Section 107.6* shall be stricken in its entirety.
- (k) *Section 108* shall be stricken in its entirety, being Sections 108.1 through 108.7.
- (l) *Section 110* shall be stricken in its entirety, being Sections 110.1 through 110.4.
- (m) *Section 111* shall be stricken in its entirety, being Sections 111.1 through 111.8.
- (n) *Section 302.4*. Insert: Six (6) inches.
- (o) *Section 304.14*. Insert: April 15 to October 15.
- (p) *Section 602.3*. Insert: September 15 to May 15.
- (q) *Section 602.4*. Insert: September 15 to May 15.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 28-2. - Additions, insertions, and amendments.

The International Property Maintenance Code as adopted by reference and incorporated into section 28-1 is amended to read as follows:

- (a) *Section 101.1* Insert: The City of Warren (the City).
- (b) *Section 101.2* is amended to read as follows:

Scope. The provisions of this code: (1) apply to all *premises* in the City; (2) state the minimum requirements and standards for light, ventilation, space, heating, sanitation, protection from the elements, safety from fire and other hazards, and sanitary maintenance; (3) list the responsibilities of the *owners*, the owner's authorized agents, *operators*, and *occupants* of a *premises* in the City; and (4) sets forth the methods of administration, enforcement, and penalties of the code.

- (c) *Section 101.5* is added to read:

Responsible parties. Except if specifically exempted, each *owner* (which includes *operators* and agents) is responsible for maintaining the *premises* as required by this code. Each *occupant* is responsible for maintaining the part of the *premises* he/she/it occupies as required by Part 3 of this code.

- (d) *Section 102.2* is amended to read as follows:

Maintenance. Each *owner* (which includes *operators* and agents) and each *occupant* shall maintain all equipment, systems, devices, and safeguards required by this code or any applicable regulation in good working order. *Owners* and *occupants* shall not remove, shut off, discontinue any service facility, equipment, or utility that is required under this code, unless it is a temporary interruption to allow for repairs or alterations. This code is not a basis for an *owner* or *occupant* to remove or abrogate any fire protection or safety systems in an existing structure.

- (e) *Section 103.1* is amended to read as follows:

General. The department of property maintenance inspection is created and the executive official in charge shall be known as the code enforcement officer. This is an

independent department of city government created pursuant to Sec. 7.26 of the City Charter.

(f) Section 103.5 is amended to read as follows:

Fees and Costs. City Council shall establish fees and costs associated with administering and enforcing this code. Fees and costs shall be reasonably related to the expense of administering and enforcing this code.

(g) Section 104.1 is amended to read as follows:

General. The code enforcement officer shall enforce the provisions of this code. References to code official shall mean code enforcement officer or inspector as authorized to enforce the code as set forth in Section 1-11 of the Code of Ordinances.

(h) Section 104.3 is amended to read as follows:

Right of Entry. The code enforcement officer or inspector may enter a premises to conduct an inspection as provided below:

1. For residential rental premises, if compliant with the directives of MCL 125.526, as amended.
2. For residential owner-occupied premises, consent of an owner or obtaining an administrative warrant.
3. Premises being used for a nonresidential purpose, consent of an owner, occupant, or operator or obtaining an administrative warrant.
4. For an emergency. An emergency includes, but is not limited to, fire, flood, noxious fumes, toxic spill, or other serious threat to human health or life.
5. Otherwise permitted by law.

(i) Section 104.5 is amended to read as follows:

Notice of inspection. When the code enforcement officer or inspector has reason to believe that violations of the International Property Maintenance Code exist, a Notice of Inspection shall be posted on the premises to notify the owner that inspections shall be conducted pursuant to the provisions of section 104.2 and 104.3 of the Code. A Notice of Inspection is not required when there is an emergency as described in Section 109 of this Code.

(j) Section 106 is amended to read as follows:

SECTION 106 VIOLATION AND CITATION

Section 106.1 is amended to read as follows:

Violation. Each owner (which includes operators and agents) and each occupant is responsible for maintaining the premises in compliance with this code. An owner or occupant who fails to comply with this code is subject to the warning and citation procedures and penalties outlined in this code.

Section 106.2 is amended to read as follows:

Citation. To issue a citation under this code, the code enforcement officer or inspector shall comply with the requirements listed below. The code enforcement officer or inspector may issue a violation to each owner and each occupant even if the violation arises from the same condition.

106.2.1 Warning notice. Before issuing a citation, the code enforcement officer or inspector shall comply with the warning notice procedure described in Section 107 of this Code.

106.2.2 Form. The citation shall be in writing and include:

1. a sufficient description of the *premises* to identify it;
2. sufficient information to identify the violation(s);
3. the date that the violation occurred;
4. that a hearing date will be scheduled; and
5. that the *owner* or *occupant* has a right to appeal an adverse decision at the hearing to the Macomb County Circuit Court.

106.2.3 Method of Service. The code enforcement officer or inspector shall serve a citation through one of the following three methods:

1. personal service;
2. sending the warning notice by first-class or certified mail to the subject party's last known address; or
3. if the warning notice is returned showing that the letter was not delivered, posting the warning notice in a conspicuous place at the *premises*.

Section 106.3 is amended to read as follows:

Prosecution of violation. Except for misdemeanor offenses, citations are set for hearing in the Administrative Hearings Bureau (AHB). The AHB shall conduct a hearing and sentence a person found responsible for a violation as provided in the Code of Ordinances, Chapter 2.5 and its Rules of Procedure. With the exception of misdemeanor offenses, any citation issued pursuant to this code is a *strict liability offense*. An adverse decision by the AHB may be appealed to the Macomb County Circuit Court.

Section 106.4 is amended to read as follows:

Violation penalties. Except if there is an administrative hearings officer vacancy as described in Chapter 2.5, section 2.5-4(d) or as specifically stated otherwise in this code, the violation of a provision of this code is a blight violation. The administrative hearings bureau shall punish a person found responsible for a violation as provided in Warren Code of Ordinances, Chapter 2.5, section 2.5-7. Each day that a violation continues is a separate offense.

Section 106.6 is added to read as follows:

Schedule of fines. The City Council shall establish a schedule of fines for blight citations issued pursuant to this code.

(k) Section 107 is amended to read as follows:

**SECTION 107
WARNING NOTICE**

107.1 Warning Notice. Except when a violation is a misdemeanor or there is an imminent danger, when the code enforcement officer or inspector determines that either an owner or occupant is violating this code, or has a reasonable belief that he/she/it is violating this code, the code enforcement officer or inspector shall provide the subject party with a warning notice prior to issuing a citation under Section 106 of this code.

107.2. Form. The warning notice shall be in writing and include:

- 1. a sufficient description of the premise to identify it;
- 2. sufficient information to identify the violation(s);
- 3. provide a reasonable length of time to correct the violation(s);
- 4. state that a citation will be issued if the violation is not corrected in the time provided;
- and
- 5. advise the owner or occupant of the right to appeal.

A warning notice may be in the form of a letter, an inspection report, or other writing so long as it contains the information listed above.

107.3. Method of Service. The code enforcement officer or inspector shall serve the warning notice through one of the following three methods:

- 1. personal service;
- 2. sending the warning notice by first-class or certified mail to the subject party’s last known address; or
- 3. if the warning notice is returned showing that the letter was not delivered, posting the warning notice in a conspicuous place at the premises.

107.4. Unauthorized tampering. Any sign, tag, or seal properly posted by a code enforcement officer or inspector pursuant to this code shall not be tampered with or removed without written permission of the code enforcement officer or inspector. A person violating this Section is guilty of a misdemeanor punishable by incarceration for not more than ninety (90) days, a fine of not more than five hundred dollars (\$500.00), or both.

- (l) Section 107.5 shall be stricken in its entirety.
- (m) Section 107.6 shall be stricken in its entirety.
- (n) Section 108 shall be stricken in its entirety, being Sections 108.1 through 108.7.

(o) Section 109 is amended to read as follows:

SECTION 109 EMERGENCIES

109.1 Unsafe premises. If the code enforcement officer or inspector reasonably believes that a premises or structure is in danger of collapsing, has collapsed, poses a substantial risk to human health, or is otherwise a danger to health, safety, or welfare of the community, he or she shall post, at each entrance of the structure or premises, a notice that states that the structure or premises is unsafe and entrance is prohibited. The code enforcement officer or inspector shall notify the owner, occupant, or operator of the posting within seven days at the last known address of the subject party or parties. The owner, occupant, or operator may only enter the premise or structure with written permission of the code enforcement officer or inspector.

109.2 Emergency measures. If the code enforcement officer or inspector reasonably believes that a structure or premises poses an imminent danger, he or she may take any necessary steps to make the premises temporarily safe by either: (1) ordering the owner or operator to perform the necessary work; or (2) employing a reputable person or business to perform the necessary work. If the City incurs costs pursuant to this Section, the City may seek reimbursement from any or all of the owners, occupants, or operators for all reasonable costs associated with the emergency measures. The City may also place a lien on the property in the amount of the costs the City expended.

109.3 Closures. If, based on an unsafe premise, it is reasonably necessary for the public health, safety, or welfare, a code enforcement officer or inspector may temporarily close or order closed premises (including adjacent premises), streets, sidewalks, and any other surrounding areas.

109.4 Penalty. A person who enters a premises in violation of Section 109.1 of this code, or fails to comply with a legal emergency measure order issued pursuant to 109.2 of this code is guilty of a misdemeanor punishable by incarceration for not more than ninety (90) days, a fine of not more than five hundred dollars (\$500.00), or both.

109.5 Hearing. An owner or operator ordered to take emergency measures described in Section 109.2 of this Code shall comply with such order immediately. After complying, an aggrieved party may appeal the emergency measure action or emergency measure order issued pursuant to Section 109.2, by following the appeal process described in Section 111.

(p) Section 110 shall be stricken in its entirety, being Sections 110.1 through 110.4.

(q) Section 111.1 is amended to read as follows:

Application for appeal. An aggrieved party may appeal (1) a warning notice issued pursuant to Section 107, (2) a determination of an unsafe premises pursuant to Section 109.1, (3) an emergency measure order or action pursuant to Section 109.2, or (4) a stop work order issued pursuant to Section 112.2 to the board of appeals through the procedure outlined in this Section. In order to perfect an appeal, an appellant shall do

all of the following: (1) complete a written application on a form provided by the City; (2) submit the application within 20 days of the warning notice service or *emergency measure* was ordered or performed; and provide information on the application stating one of the three bases for appeal: the true intent of this Code or the rules legally adopted pursuant to this Code have been incorrectly interpreted; the provisions of this Code do not fully apply; or the requirement of this Code are adequately satisfied by other means.

(r) **Section 111.2. Membership of the Board.** The board of appeals shall consist of not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code enforcement officer shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the Mayor and confirmed by City Council. The board members serve staggering and overlapping terms.

(s) Section 111.2.4 is amended to read as follows:

Secretary. The Mayor shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the City Clerk's office.

(t) Section 111.2.5. is amended to read as follows:

Compensation of members. City Council shall set member compensation.

(u) Section 111.8 is amended to read as follows:

Stays of enforcement. A pending appeal of a warning notice under this Section stays any enforcement proceedings related to that warning notice, including citations for failing to obtain a certificate of compliance or a rental license. Unless the board of appeals orders otherwise, stop work orders and *emergency measures* remain in place through the entire appellate procedure.

(v) Section 111.9 is added to read as follows:

Appellate fee. City Council shall set an appellate fee that is reasonably related to the costs of administering the Board of Appeals.

(w) Section 112.4 is amended to read as follows:

Failure to comply. Unless directed to do so by the code enforcement officer or inspector, any person who continues to work after a stop work order is placed on the *premises* or is served with notice of a stop work order is guilty of a misdemeanor punishable by incarceration for not more than ninety (90) days, a fine of not more than five hundred dollars (\$500.00), or both.

(x) Section 302.4. Insert: Six (6) inches.

(y) Section 304.14. Insert: April 15 to October 15.

(z) Section 602.3. Insert: September 15 to May 15.

(aa) Section 602.4. Insert: September 15 to May 15.

SECTION 3. This Ordinance shall take effect on January 16, 2019.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-771 was adopted by the Council of the City of Warren at its meeting held on January 8, 2019.

SONJA BUFFA
City Clerk

Published: January 16, 2019