

**65-048-2017**

**AN ORDINANCE TO DELETE CHAPTER 52 AND SECTIONS OF CHAPTERS 11, 25  
AND 28 AND CREATE NEW CHAPTER 52 OF THE MOBILE CITY CODE**

Sponsored by: Mayor Stimpson

**WHEREAS** the Council has determined that Article I, II and III of Chapter 52, entitled "Rollerskates and Skateboards" should be deleted in its entirety;

**WHEREAS** the Council has determined that Article V, Sections 81-98, entitled "Nuisance Abatement" of Chapter 11 should be deleted in its entirety;

**WHEREAS** the Council has determined that Article III, Divisions 1 and 2, of Chapter 25, entitled "Lot Maintenance" should be deleted in its entirety,

**WHEREAS** the Council has determined that Article IV of Chapter 28, Sections 41-50, entitled "Property Maintenance Code" of Chapter 28, should be deleted in its entirety;

**WHEREAS**, the Council has determined that the following Chapter of the City Code should be created:

Chapter 52 and entitled: Real Property Maintenance and Enforcement

**WHEREAS** the Council has determined that the newly created Chapter 52 shall include the following Articles, and be adopted as:

Article I – Property Maintenance Code

Article II – Abatement of Unsafe Buildings and Structural Nuisances

Article III – Abatement of High Weeds and Grass (and Lot Clearing)

Article IV -- General Real Property Nuisances (and Lot Maintenance)

Article V – Foreclosure of Code Enforcement Liens

## Article VI – Redevelopment Project Areas

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOBILE DOES HEREBY ORDAIN AND DELETE FROM, AMEND AND ADD TO THE CITY CODE, AS FOLLOWS:**

Section 1. Article I, II and III of Chapter 52 of the City Code, entitled “Rollerskates and Skateboards” is hereby deleted in its entirety

Section 2. Article V, Sections 81-98, entitled “Nuisance Abatement” of Chapter 11 of the City Code is hereby deleted in its entirety

Section 3. Article III, Divisions 1 and 2, of Chapter 25, entitled “Lot Maintenance” of the City Code is hereby deleted in its entirety.

Section 4. Article IV of Chapter 28, Sections 41-50, entitled “Property Maintenance Code” of Chapter 28, of the City Code is hereby deleted in its entirety.

Section 5. Article II of Chapter 25, Sections 35, 37, and 38, of the City Code is hereby deleted in its entirety.

Section 6. A new Chapter 52 of the City Code, entitled “Real Property Maintenance and Enforcement” is hereby created and ordained, and shall include the following Articles:

Article I – Property Maintenance Code

Article II – Abatement of Unsafe Buildings and Structural Nuisances

Article III – Abatement of High Weeds and Grass (and Lot Clearing)

Article IV -- General Real Property Nuisances (and Lot Maintenance)

Article V – Foreclosure of Code Enforcement Liens

Article VI – Redevelopment Project Areas

as set out in full as Exhibit A to hereto.

Section 6. The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

Section 7. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 8. Any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance shall be affected, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 9. This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

**ADOPTED: December 5, 2017**

**Lisa C. Lambert, City Clerk**

## **Chapter 52 – Article I: Property Maintenance Code**

### **Section 101: Scope and Administration**

#### **101.1 Title**

These regulations shall be known as the *Property Maintenance Code* of the City of Mobile, hereinafter referred to as "this code."

#### **101.2 Scope**

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a

reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, an owner's authorized agent, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

### **101.3 Intent**

This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

### **101.4 Severability**

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

## **Section 102 Applicability**

### **102.1 General**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

### **102.2 Maintenance**

Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, owner's authorized agent, *operator* or *occupant* shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

### **102.3 Application of Other Codes**

Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

#### **102.4 Existing Remedies**

The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

#### **102.5 Workmanship**

Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

#### **102.6 Historic Buildings**

The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

#### **102.7 Referenced Codes and Standards**

The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2. **Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

##### **102.7.1 Conflicts**

Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

##### **102.7.2 Provisions in Referenced Codes and Standards**

Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

#### **102.8 Requirements Not Covered by Code**

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

#### **102.9 Application of References**

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

## **102.10 Other Laws**

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

## **PART 2 – ADMINISTRATION AND ENFORCEMENT**

### **Section 103; Department of Municipal Enforcement**

#### **103.1 General**

The Code Official, as designated pursuant to 103.2, or his/her designee, shall be responsible for enforcing the provisions of this code.

#### **103.2 Appointment**

The code official shall be designated by the Mayor.

#### **103.3 Enforcement Officers**

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the Mayor, the Code Official shall have the authority to designate enforcement officers, inspectors and other employees. Such employees shall have powers as delegated by the code official.

**103.4 Liability.** The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

**103.4.1 Legal Defense.** Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**103.5 Fees.** Any fees required for services under this code shall be due and payable prior to the rendering of the services.

### **Section 104 Duties and Powers of the Code Official**

#### **104.1 General**

The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and

procedures shall not have the effect of waiving requirements specifically provided for in this code.

#### **104.2 Inspections**

The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. 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 *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

#### **104.3 Right of Entry**

Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the structure or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such structure or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner*, owner's authorized agent or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

#### **104.4 Identification**

The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

#### **104.5 Notices and orders**

The *Code Official*, or his or her designee, shall issue all necessary notices of violation, municipal offense tickets, citations, uniform non traffic citation and complaint, or complaints and summons to ensure compliance with this code.

#### **104.6 Department Records**

The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

### **Section 105 Approval**

#### **105.1 Modifications**

Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* authorized agent, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code 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.

### **105.2 Alternative Materials, Methods and Equipment**

The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons the alternative was not *approved*.

### **105.3 Required Testing**

Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

#### **105.3.1 Test Methods**

Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

#### **105.3.2 Test Reports**

Reports of tests shall be retained by the *code official* for the period required for retention of public records.

### **105.4 Used Material and Equipment**

The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *code official*.

### **105.5 Approved Materials and Equipment**

Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

### **105.6 Research Reports**

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically

provided for in this code, shall consist of valid research reports from *approved* sources.

## **Section 106 Violations**

### **106.1 Unlawful Acts**

It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

### **106.2 Notice of Violation**

The *Code Official* shall serve a notice of violation, order, or citation in accordance with Section 107.

### **106.3 Prosecution of Violation**

Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

### **106.4 Violation Penalties**

It shall be unlawful for any person to violate any provision of this chapter. Upon conviction, any person violating this Chapter shall be assessed a fine of not less than \$100.00 and not more than \$500.00, plus court costs and fees. Every day a violation of this Chapter shall continue shall constitute a separate violation and offense. This section is expressly in addition to, and is not intended to limit or in any other manner affect the provisions for civil infractions in section 106.3 herein or under law.

### **106.5 Abatement of Violation**

The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction 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*.

## **Section 107 Notices and Orders**

### **107.1 Notice to Owner or to Person or Persons Responsible**

Whenever the Code Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in

Sections 107.2 and 107.3 to the owner or the person responsible for the violation as specified in this code. Notices for condemnation procedures shall, except in cases of Emergency Measures as described in Section 109, also comply with Section 108.3.

### **107.2 Form**

Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the violation or violations and why the notice is being issued;
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

### **107.3 Method of service**

Such notice shall be deemed to be properly served if a copy thereof is:

1. Posted in a conspicuous place in or about the structure affected by such notice; and
2. Delivered personally, or, sent by certified and first class regular U.S. mail to "occupant" at the address of the property and to the last known address of the owner(s) and all other parties with a legal interest in the property as reflected in the records of the Revenue Commissioner and Probate Court of Mobile County, Alabama.

### **107.4 Unauthorized Tampering**

Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

### **107.5 Penalties**

Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

### **107.6 Transfer of Ownership**

It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code*

*official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

## **Section 108 Unsafe Structures and Equipment**

### **108.1 General**

When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

#### **108.1.1 Unsafe Structures**

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

#### **108.1.2 Unsafe Equipment**

Unsafe equipment includes any boiler, heating equipment, elevator, moving 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.

#### **108.1.3 Structure Unfit for Human Occupancy**

A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

#### **108.1.4 Unlawful Structure**

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

#### **108.1.5 Dangerous Structure or Premises**

For the purpose of this code, any structure or *premises* that has any or all of the conditions

or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance 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.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, 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.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, 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.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical systems, plumbing system or other cause, is

determined by the *code official* to be a threat to life or health.

11. 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 so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public

## **108.2 Closing of Vacant Structures**

If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within twenty (20) days of the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof, plus a fee equal to all direct and indirect costs incurred with administration and enforcement of this section in regard of the structure, shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

### **108.2.1 Authority to Disconnect Service Utilities**

The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *code 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 disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

### **108.3 Notice**

Whenever the *code official* has *condemned* a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the *condemned* equipment. The notice shall be in the form prescribed in Section 107.2.

### **108.4 Placarding**

Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

#### **108.4.1 Placard Removal**

The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

#### **108.5 Prohibited Occupancy**

Any occupied structure *condemned* and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

#### **108.6 Abatement Methods**

The *owner, operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

#### **108.7 Record**

The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

### **Section 109 Emergency Measures**

#### **109.1 Imminent Danger**

When in the opinion of the Code Official, there is *imminent* danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *Code Official* is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The *Code Official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This *Structure* Is Unsafe and Its *Occupancy* Has Been Prohibited by the *Code Official*." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

#### **109.2 Temporary Safeguards**

Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

### **109.3 Closing Streets**

When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

## **Section 111 Means of Appeal**

### **111.1 Application for Appeal**

Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

### **111.2 Membership of Board**

The board of appeals, herein called the Construction Board of Appeals, shall be in accordance with the applicable sections of the International Building Code and the Ordinance Adopting the IBC which is adopted by separate ordinance.

## **Section 112 Stop Work Order**

### **112.1 Authority**

Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

### **112.2 Issuance**

A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

### **112.3 Emergencies**

Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

#### **112.4 Failure to Comply**

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$100.00 and not more than \$500.00, plus court costs and fees. Every day a violation of this Chapter shall continue shall constitute a separate violation and offense. This section is expressly in addition to, and is not intended to limit or in any other manner affect the provisions for civil infractions in section 106.3 herein or under law.

## **Chapter 2 Definitions**

### **Section 201 General**

#### **201.1 Scope**

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

#### **201.2 Interchangeability**

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

#### **201.3 Terms Defined in Other Codes**

Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

#### **201.4 Terms Not Defined**

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

#### **201.5 Parts**

Whenever the words "*dwelling unit*," "*dwelling*," "*premises*," "*building*," "*rooming house*," "*rooming unit*," "*housekeeping unit*" or "*story*" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

## Section 202 General Definitions

**ANCHORED.** Secured in a manner that provides positive connection.

**[A] APPROVED.** Acceptable to the *code official*.

**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

**[A] CODE OFFICIAL.** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

**CONDEMN.** To adjudge unfit for *occupancy*.

**COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS.** The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals.

**DETACHED.** When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

**DETERIORATION.** To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

**[BG] 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.

**[Z] EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

**EQUIPMENT SUPPORT.** Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

**EXTERIOR PROPERTY.** The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**[BE] GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**[BG] HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas* are not considered *habitable spaces*.

**HISTORIC BUILDING.** Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.

**INFESTATION.** The presence, within or contiguous to, a structure or *premises* of insects, rodents, vermin or other pests.

**INOPERABLE MOTOR VEHICLE.** A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**[A] LABELED.** Equipment, materials or products to which have been affixed a label, seal, symbol or other

identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

**LET FOR OCCUPANCY or LET.** To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit*, *rooming unit*, building, premise or structure by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**NEGLECT.** The lack of proper maintenance for a building or *structure*.

**[A] OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

**OPERATOR.** Any person who has charge, care or control of a structure or *premises* which is let or offered for *occupancy*.

**[A] OWNER.**

Owner is any person, agent, firm or corporation having legal title to the real property, including any mortgage holder, bank, lien holder, company, institution, individual or other entity listed in the records of the Office of the Judge of Probate of Mobile County, and /or the estate of any deceased owner(s), and / or the last assessed owner in the property tax records of the Mobile County Revenue Commissioner.

**PERSON.** An individual, corporation, partnership or any other group acting as a unit.

**PEST ELIMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serves as their food or water; by other *approved pest elimination* methods.

**[A] PREMISES.** A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

**[A] PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for

compensation and not occupied as a one- or two-family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**[BG] SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**[A] STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**ULTIMATE DEFORMATION.** The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

**[M] VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**[Z] YARD.** An open space on the same lot with a structure.

## **Chapter X; Section 301, General Requirements**

### **301.1 Scope**

The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

### **301.2 Responsibility**

The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-

occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* which they occupy and control.

### **301.3 Vacant Structures and Land**

Vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

## **Section 302 Exterior Property Areas**

### **302.1 Sanitation**

*Exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.

### **302.2 Grading and Drainage**

*Premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

**Exception:** *Approved* retention areas and reservoirs.

### **302.3 Sidewalks and Driveways**

Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

### **302.5 Rodent Harborage**

Structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

### **302.6 Exhaust Vents**

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

### **302.7 Accessory Structures**

Accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

### **302.8 Motor Vehicles**

Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

### **302.9 Defacement of Property**

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

## **Section 303 Swimming Pools, Spas and Hot Tubs**

### **303.1 Swimming Pools**

Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

### **303.2 Enclosures**

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

**Exception:** Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

## **Section 304 Exterior Structure**

### **304.1 General**

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

### **304.1.1 Unsafe Conditions**

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;

12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or

13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

1. Where substantiated otherwise by an *approved* method.

2. Demolition of unsafe conditions shall be permitted where *approved* by the code *official*.

**304.2 Protective Treatment**

Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

**304.3 Premises Identification**

Buildings shall have *approved address* numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

**304.4 Structural Members**

Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

**304.5 Foundation Walls**

Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**304.6 Exterior Walls**

Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

### **304.7 Roofs and Drainage**

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

### **304.8 Decorative Features**

Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

### **304.9 Overhang Extensions**

Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

### **304.10 Stairways, Decks, Porches and Balconies**

Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

### **304.11 Chimneys and Towers**

Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weathercoating materials, such as paint or similar surface treatment.

### **304.12 Handrails and Guards**

Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

### **304.13 Window, Skylight and Door Frames**

Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

#### **304.13.1 Glazing**

Glazing materials shall be maintained free from cracks and holes.

#### **304.13.2 Openable Windows**

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

#### **304.14 Insect Screens**

Dwelling units which do not have a central air conditioning system shall have tightly fitting 16 mesh per inch screens on all exterior openable windows and doors used or required for ventilation. Screens on windows and doors shall be stretched and fitted and maintained without open rips or tears. A closing device shall be installed on all screen doors.

**Exception:** Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

#### **304.15 Doors**

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

#### **304.16 Basement Hatchways**

Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

#### **304.17 Guards for Basement Windows**

Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

#### **304.18 Building Security**

Doors, windows or hatchways for dwelling units, room units or *housekeeping units* shall be provided with *devices* designed to provide security for the *occupants* and property within.

##### **304.18.1 Doors**

Doors providing access to a *dwelling unit, rooming unit or housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

### **304.18.2 Windows**

Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit, rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

### **304.18.3 Basement Hatchways**

*Basement* hatchways that provide access to a *dwelling unit, rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

### **304.19 Gates**

Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

## **Section 305 Interior Structure**

### **305.1 General**

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a *rooming house, housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior* property.

#### **305.1.1 Unsafe Conditions**

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or *the International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;

5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;

6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

1. Where substantiated otherwise by an *approved* method.

2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

**305.2 Structural Members**

Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**305.3 Interior Surfaces**

Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

**305.4 Stairs and Walking Surfaces**

Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

**305.5 Handrails and Guards**

Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**305.6 Interior Doors**

Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

**Section 306 Component Serviceability**

### **306.1 General**

The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

#### **306.1.1 Unsafe Conditions**

Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:

1.1. Collapse of footing or foundation system;

1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;

1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;

1.4. Inadequate soil as determined by a geotechnical investigation;

1.5. Where the allowable bearing capacity of the soil is in doubt; or

1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

2. Concrete that has been subjected to any of the following conditions:

2.1. *Deterioration*;

2.2. *Ultimate deformation*;

2.3. Fractures;

2.4. Fissures;

2.5. Spalling;

2.6. Exposed reinforcement; or

2.7. *Detached*, dislodged or failing connections.

3. Aluminum that has been subjected to any of the following conditions:

3.1. *Deterioration*;

3.2. Corrosion;

3.3. Elastic deformation;

3.4. *Ultimate deformation*;

3.5. Stress or strain cracks;

3.6. Joint fatigue; or

3.7. *Detached*, dislodged or failing connections.

4. Masonry that has been subjected to any of the following conditions:

4.1. *Deterioration*;

4.2. Ultimate deformation;

4.3. Fractures in masonry or mortar joints;

4.4. Fissures in masonry or mortar joints;

4.5. Spalling;

4.6. Exposed reinforcement; or

4.7. *Detached*, dislodged or failing connections.

5. Steel that has been subjected to any of the following conditions:

5.1. *Deterioration*;

5.2. Elastic deformation;

5.3. *Ultimate deformation*;

5.4. Metal fatigue; or

5.5. *Detached*, dislodged or failing connections.

6. Wood that has been subjected to any of the following conditions:

6.1. *Ultimate deformation*;

6.2. *Deterioration*;

6.3. Damage from insects, rodents and other vermin;

- 6.4. Fire damage beyond charring;
- 6.5. Significant splits and checks;
- 6.6. Horizontal shear cracks;
- 6.7. Vertical shear cracks;
- 6.8. Inadequate support;
- 6.9. *Detached*, dislodged or failing connections; or
- 6.10. Excessive cutting and notching.

**Exceptions:**

- 1. Where substantiated otherwise by an approved method.
- 2. Demolition of unsafe conditions shall be permitted where approved by the code official.

## **Section 307 Handrails and Guardrails**

### **307.1 General**

Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

**Exception:** *Guards* shall not be required where exempted by the adopted building code.

## **Section 309 Pest Elimination**

### **309.1 Infestation**

Structures shall be kept free from insect and rodent *infestation*. Structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

### **309.2 Owner**

The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

### **309.3 Single Occupant**

The *occupant* of a one-family dwelling or of a *single-tenant* nonresidential structure shall be responsible for pest elimination on the *premises*.

### **309.4 Multiple Occupancy**

The *owner* of a structure containing two or more *dwelling units*, a *multiple occupancy*, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior* property. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

### **309.5 Occupant**

The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

**Exception:** Where the *infestations* are caused by defects in the structure, the owner shall be responsible for pest elimination.

## **Chapter 4 Light, Ventilation and Occupancy Limitations**

### **Section 401 General**

#### **401.1 Scope**

The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a structure.

#### **401.2 Responsibility**

The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

#### **401.3 Alternative Devices**

In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

### **Section 402 Light**

### **402.1 Habitable Spaces**

Every *habitable* space shall have not less than one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable* space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m<sup>2</sup>). The exterior glazing area shall be based on the total floor area being served.

### **402.2 Common Halls and Stairways**

Every common hall and stairway in residential occupancies, other than in one and two-family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 footcandle (11 lux) at floors, landings and treads.

### **402.3 Other Spaces**

All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

## **Section 403 Ventilation**

### **403.1 Habitable Spaces**

Every *habitable* space shall have not less than one operable window. The total operable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Section 402.1.

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

### **403.2 Bathrooms and Toilet Rooms**

Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable* spaces as required by Section 403.1, except that a window shall not be required in such spaces 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.

### **403.3 Cooking Facilities**

Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

#### **Exceptions:**

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

### **403.4 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.

### **403.5 Clothes Dryer Exhaust**

Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

**Exception:** Listed and *labeled* condensing (ductless) clothes dryers.

## **Section 404 Occupancy Limitations**

### **404.1 Privacy**

*Dwelling units*, hotel units, *housekeeping units*, *rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

### **404.2 Minimum Room Widths**

A habitable room, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

### **404.3 Minimum Ceiling Heights**

*Habitable spaces*, hallways, corridors, laundry areas, *bathrooms*, *toilet rooms* and habitable basement areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

**Exceptions:**

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over not less than onethird of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

**404.4 Bedroom and Living Room Requirements**

Every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

**404.4.1 Room Area**

Every living room shall contain not less than 120 square feet (11.2 m<sup>2</sup>) and every bedroom shall contain not less than 70 square feet (6.5 m<sup>2</sup>) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.

**404.4.2 Access From Bedrooms**

*Bedrooms* shall not constitute the only means of access to other *bedrooms* or habitable spaces and shall not serve as the only means of egress from other *habitable* spaces.

**Exception:** Units that contain fewer than two *bedrooms*.

**404.4.3 Water Closet Accessibility**

Every *bedroom* shall have access to not less than one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to not less than one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

**404.4.4 Prohibited Occupancy**

Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

#### 404.4.5 Other Requirements

*Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

#### 404.5 Overcrowding

Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**TABLE 404.5 MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room <sup>a, b</sup>	120	120	150
Dining room <sup>a, b</sup>	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.0929 m<sup>2</sup>.

a. See Section 404.5.2 for combined living room/dining room spaces.

b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

#### 404.5.1 Sleeping Area

The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 404.4.

#### 404.5.2 Combined Spaces

Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

#### 404.6 Efficiency Unit

Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m<sup>2</sup>). A unit occupied by not more than two *occupants* shall have a minimum clear floor area of 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three *occupants* shall have a minimum clear floor area of 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by Items 2 and 3.

2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.

4. The maximum number of *occupants* shall be three.

#### **404.7 Food Preparation**

All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## **Chapter 5 Plumbing Facilities and Fixture Requirements**

### **Section 501 General**

#### **501.1 Scope**

The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

#### **501.2 Responsibility**

The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* that does not comply with the requirements of this chapter.

### **Section 502 Required Facilities**

#### **502.1 Dwelling Units**

Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the

room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

### **502.2 Rooming Houses**

Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

### **502.3 Hotels**

Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 *occupants*.

### **502.4 Employees' Facilities**

Not less than one water closet, one lavatory and one drinking facility shall be available to employees.

#### **502.4.1 Drinking Facilities**

Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

### **502.5 Public Toilet Facilities**

Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.

## **Section 503 Toilet Rooms**

### **503.1 Privacy**

*Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

### **503.2 Location**

*Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

### **503.3 Location of Employee Toilet Facilities**

Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

**Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

#### **503.4 Floor Surface**

In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

### **Section 504 Plumbing Systems and Fixtures**

#### **504.1 General**

Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

#### **504.2 Fixture Clearances**

Plumbing fixtures shall have adequate clearances for usage and cleaning.

#### **504.3 Plumbing System Hazards**

Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, *deterioration* or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

### **Section 505 Water System**

#### **505.1 General**

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

### **505.2 Contamination**

The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

### **505.3 Supply**

The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

### **505.4 Water Heating Facilities**

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any *bathroom, toilet room, bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

## **Section 506 Sanitary Drainage System**

### **506.1 General**

Plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

### **506.2 Maintenance**

Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

### **506.3 Grease Interceptors**

Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the code official.

## **Section 507 Storm Drainage**

### **507.1 General**

Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.

## **Chapter 6 Mechanical and Electrical Requirements**

### **Section 601 General**

#### **601.1 Scope**

The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

#### **601.2 Responsibility**

The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that does not comply with the requirements of this chapter.

### **Section 602 Heating Facilities**

#### **602.1 Facilities Required**

Heating facilities shall be provided in structures as required by this section.

#### **602.2 Residential Occupancies**

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms* based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

**Exception:** In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

### **602.3 Heat Supply**

Every *owner* and operator of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from October 1 to March 31 to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

#### **Exceptions:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

### **602.4 Occupiable Work Spaces**

Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to March 31 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

#### **Exceptions:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

### **602.5 Room Temperature Measurement**

The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

## **Section 603 Mechanical Equipment**

### **603.1 Mechanical Appliances**

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.

### **603.2 Removal of Combustion Products**

Fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

**Exception:** Fuel-burning equipment and appliances that are *labeled* for unvented operation.

### **603.3 Clearances**

Required clearances to combustible materials shall be maintained.

### **603.4 Safety Controls**

Safety controls for fuel-burning equipment shall be maintained in effective operation.

### **603.5 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.

### **603.6 Energy Conservation Devices**

Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

## **Section 604 Electrical Facilities**

### **604.1 Facilities Required**

Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

### **604.2 Service**

The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

### **604.3 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 *code official* shall require the defects to be corrected to eliminate the hazard.

#### **604.3.1 Abatement of Electrical Hazards Associated With Water Exposure**

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water

### 604.3.1.1 Electrical Equipment

Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.

**Exception:** The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;

18. Electronic control, signaling and communication equipment.

#### **604.3.2 Abatement of Electrical Hazards Associated With Fire Exposure**

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

##### **604.3.2.1 Electrical Equipment**

Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.

**Exception:** Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

### **Section 605 Electrical Equipment**

#### **605.1 Installation**

Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

#### **605.2 Receptacles**

Every *habitable* space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain not less than one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

#### **605.3 Luminaires**

Every public hall, interior stairway, *toilet room*, kitchen, *bathroom*, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

#### **605.4 Wiring**

Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

### **Section 606 Elevators, Escalators and Dumbwaiters**

#### **606.1 General**

Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location *approved* by the *code official*. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

#### **606.2 Elevators**

In buildings equipped with passenger elevators, not less than one elevator shall be maintained in operation at all times when the building is occupied.

**Exception:** Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

### **Section 607 Duct Systems**

#### **607.1 General**

Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

## **Chapter 7 Fire Safety Requirements**

### **Section 701 General**

#### **701.1 Scope**

The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

#### **701.2 Responsibility**

The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

### **Section 702 Means of Egress**

#### **702.1 General**

A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

### **702.2 Aisles**

The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

### **702.3 Locked Doors**

Means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

### **702.4 Emergency Escape Openings**

Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

## **Section 703 Fire-Resistance Ratings**

### **703.1 Fire-Resistance-Rated Assemblies**

The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

### **703.2 Opening Protectives**

Required opening protectives shall be maintained in an operative condition. Fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

## **Section 704 Fire Protection Systems**

### **704.1 General**

Systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

#### **704.1.1 Automatic Sprinkler Systems**

Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

#### **704.1.2 Fire Department Connection**

Where the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an *approved* sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the fire code official.

### **704.2 Single-And Multiple-Station Smoke Alarms**

Single-and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.2.1 through 704.2.3.

#### **704.2.1 Where Required**

Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.2.1.1 through 704.2.1.4. Interconnection and power sources shall be in accordance with Sections 704.2.2 and 704.2.3.

#### **Exceptions:**

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

#### **704.2.1.1 Group R-1**

Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the *means of egress* from the sleeping area to the door leading from the *sleeping unit*.
3. In each story within the *sleeping unit*, including basements. For *sleeping units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed

on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

#### **704.2.1.2 Groups R-2, R-3, R-4 and I-1**

Single-or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of *occupant* load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit*, including *basements* but not including crawl spaces and uninhabitable attics. In *dwellings* or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

#### **704.2.1.3 Installation Near Cooking Appliances**

Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 704.2.1.1 or 704.2.1.2.

1. Ionization smoke alarms shall not be installed less than 20 feet (6096 mm) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

#### **704.2.1.4 Installation Near Bathrooms**

Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.2.1.1 or 704.2.1.2.

### **704.2.2 Interconnection**

Where more than one smoke alarm is required to be installed within an individual dwelling or *sleeping unit*, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

**Exceptions:**

1. Interconnection is not required in buildings that are not undergoing *alterations*, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where *alterations* or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

**704.2.3 Power Source**

Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

**Exceptions:**

1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing *alterations* or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available that could provide access for building wiring without the removal of interior finishes.

**704.2.4 Smoke Detection System**

Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:

1. The fire alarm system shall comply with all applicable requirements in Section 907 of the *International Fire Code*.
2. Activation of a smoke detector in a *dwelling* or *sleeping unit* shall initiate alarm notification in the *dwelling* or *sleeping unit* in accordance with Section 907.5.2 of the *International Fire Code*.
3. Activation of a smoke detector in a *dwelling* or *sleeping unit* shall not activate alarm notification appliances outside of the *dwelling* or *sleeping unit*, provided that a supervisory

signal is generated and monitored in accordance with Section 907.6.5 of the International Fire Code.

## Chapter 8 Referenced Standards

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

ASME                      American Society of Mechanical Engineers  
                                  Three Park Avenue  
                                  New York, NY 10016-5990

Standard reference number	Title	Referenced in code section number
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ASME A17.1/CSA B44-2013	Safety Code for Elevators and Escalators	606.1
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ASTM                      ASTM International  
                                  100 Barr Harbor Drive  
                                  West Conshohocken, PA 19428-2959

Standard reference number	Title	Referenced in code section number
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F 1346-91 (2010)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs	303.2
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ICC                              International Code Council  
                                  500 New Jersey Avenue, NW  
                                  6th Floor  
                                  Washington, DC 20001

Standard reference number	Title	Referenced in code section number
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IBC-15	International Building Code®	102.3, 201.3, 304.1.1, 305.1.1, 306.1.1, 401.3, 702.3
IEBC-15	International Existing Building Code®	102.3, 305.1.1, 306.1.1
IFC-15	International Fire Code®	102.3, 201.3, 604.3.1.1, 604.3.2.1, 702.1, 702.2, 704.1, 704.2
IFGC-15	International Fuel Gas Code®	102.3
IMC-15	International Mechanical Code®	102.3, 201.3
IPC-15	International Plumbing Code®	102.3, 201.3, 505.1, 602.2, 602.3
IRC-15	International Residential Code®	102.3, 201.3
IZC-15	International Zoning Code®	102.3, 201.3
NFPA	National Fire Protection Association 1 Batterymarch Park Quincy, MA 02269	
Standard reference number	Title	Referenced in code section number
25-14	Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems	704.1.1
70-14	National Electrical Code	102.4, 201.3, 604.2

## Appendix A Boarding Standard

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### Section A101 General

#### A101.1 General

Windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

## Section A102 Materials

### A102.1 Boarding Sheet Material

Boarding sheet material shall be minimum 1/2-inch-thick (12.7 mm) wood structural panels complying with the *International Building Code*.

### A102.2 Boarding Framing Material

Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

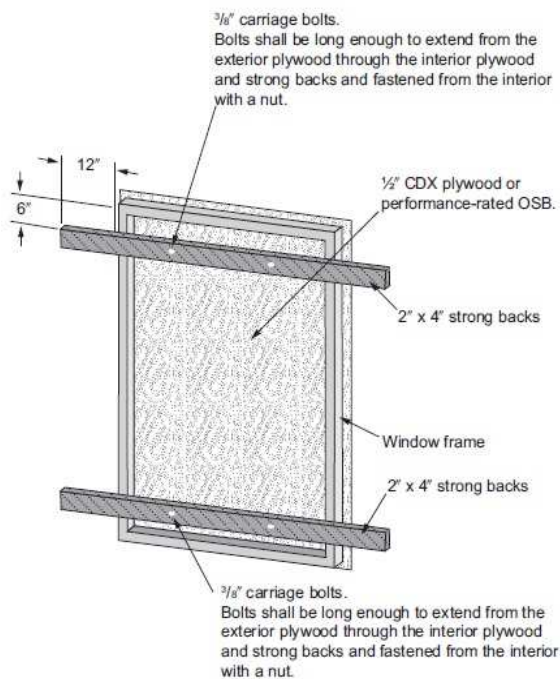
### A102.3 Boarding Fasteners

Boarding fasteners shall be minimum 3/8-inch-diameter (9.5 mm) carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

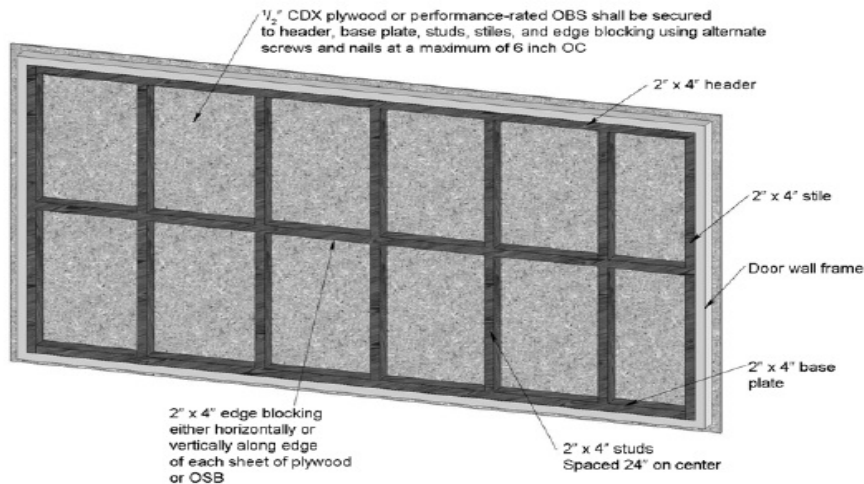
## Section A103 Installation

### A103.1 Boarding Installation

The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.



**FIGURE A103.1(1) BOARDING OF DOOR OR WINDOW**



**FIGURE A103.1(2) BOARDING OF DOOR WALL**

### **A103.2 Boarding Sheet Material**

The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

### **A103.3 Windows**

The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches (152 mm) minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

### **A103.4 Door Walls**

The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

### **A103.5 Doors**

Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manner.

### **A104 REFERENCED STANDARD**

IBC–12 International Building Code A102.1,

A102.2, A102.3

## **Chapter 52, Article II — Abatement of Unsafe Buildings and Structural Nuisances**

Section 1: Findings and purpose. (a) The existence of unsafe, dangerous and dilapidated buildings and structures within the city constitutes a public nuisance, the abatement of which burdens the city and contributes to blight and crime in neighborhoods. (b) Code of Alabama (1975), Section 11-53B-1, et. seq., permits the city, after meeting certain notice requirements, to repair or demolish unsafe buildings and to provide a means of placing a lien on the property for the costs of the work involved in abating the nuisance. (c) Implementing the procedures authorized by the state law will be more efficacious in eliminating these nuisances and will protect the public safety, health, and welfare.

Section 2. Definitions. The words used in this article will have the meanings set out below:

“Assessment” means the cost incurred to repair or demolish a structure as provided by this chapter.

"Code official" as used in this article means the city building inspector official, any city building official or deputy and any other city official or city employee designated by the mayor as the person to exercise the authority and perform the duties delegated by this article. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the Mayor, the Code Official shall have the authority to designate enforcement officers, inspectors and other employees. Such employees shall have powers as delegated by the code official.

“Building” means any building, structure, part of a building or structure, party wall, foundation used or intended for supporting or sheltering any use or occupancy.

“City” means the City of Mobile, Alabama.

“Council” means the city council.

Owner is any person, agent, firm or corporation having legal title to the real property, including any mortgage holder, bank, lien holder, , company, institution, individual or other entity listed in the records of the Office of the Judge of Probate of Mobile County, and /or the estate of any deceased owner(s), and / or the last assessed owner in the property tax records of the Mobile County Revenue Commissioner.

“Person” means any natural or legal person including partnerships, corporations, limited liability companies and the like.

“Permanent improvements” means all repairs, improvements, appurtenances, buildings, and equipment attached to property as fixtures.

“Repair” means any and all improvements, efforts, and /or work undertaken to stabilize a structure or building, or any part thereof, including walls, foundations and roofs, to the extent necessary so that the structure or building will no longer be dangerous or unsafe to the extent that it is a public nuisance.

**Section 3: Powers and Duties of the Code Official.** The Code Official, as designated pursuant to Article I of this Chapter, or his/her designee, shall be responsible for enforcing the provisions of this code. The code official shall:

(1) Inspect, or cause to be inspected, any buildings, residences, schools, halls, churches, theatres, hotels, tenements, commercial manufacturing or loft buildings for the purpose of determining whether any conditions exist which render any such place a dangerous building as defined by this article;

(2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is, or may be, existing in violation of this article;

(3) Inspect any building, wall or structure reported (as hereinafter provided for) by the fire department or police department as probably existing in violation of the terms of this article; and

(4) Perform such other duties as are set forth in this article.

(c) The code official is hereby authorized and directed to enforce all of the provisions of this article. Upon presentation of the proper credentials, the code official may enter any building, structure, part of building or structure, party wall, foundation, or premises for the purpose of inspection, to prevent violation of the provisions of this article, and/or to carry out an order given pursuant to this article.

**Section 4. Dangerous and Unsafe Buildings Defined.** Properties containing any building, structure, part of building, part of a structure, party wall, or foundation which has any of the following defects shall be deemed dangerous and unsafe:

(1) Those properties with any door, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the City of Mobile as related to the requirements for existing buildings;

(2) Those properties which the walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress;

(3) Those properties with any portion of a building, structure or appurtenance 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;

(4) Those properties with any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value;

(5) Those properties where the building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way;

(6) Those properties where the building or structure, or any portion thereof, is clearly unsafe for its use and occupancy;

(7) Those properties where the building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, 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;

(8) Those properties where any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the City of Mobile building or fire 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;

(9) Those properties where a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

(10) Those properties with any building or structure, because of a lack of sufficient or proper fire-resistance-related construction, fire protection systems, electrical systems, fuel connections, mechanical system, plumbing system or other cause, is determined by the Municipal Enforcement Official to be a threat to life or health;

(11) Those properties where 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 so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

**Section 5. Dangerous and unsafe buildings or structures constitute nuisances.** All dangerous and unsafe buildings or structures are hereby declared to be public nuisances, and shall be repaired, demolished and/or vacated as provided by this article.

**Section 6. Standards for repair, demolition or vacation.** The following standards shall be followed by the code official in ordering a repair, demolition, and/or vacation:

(a) A building, structure, part of a building, part of a structure, party wall or foundation shall be ordered to be repaired when it exhibits only one of the following defects: roof damage, leaning walls, or compromised foundation; not more than two of the following factors: missing or broken windows, close proximity to blight, tax delinquency, disconnected utilities, water or rain penetrating into the structure, previous fire damage, or less than two code violations existing under Article I of this Chapter; and, is able to be repaired to the extent necessary so that it will no longer be deemed a dangerous and unsafe building under the terms of this article.

(b) A building, structure, part of a building, part of a structure, party wall or foundation shall be ordered to be demolished when it exhibits two or more of the following defects: roof damage, leaning walls, or compromised foundation; and, more than two of the following factors: missing or broken windows, close proximity to blight, tax delinquency, disconnected utilities, water or rain penetrating into the structure, previous fire damage, or less than two code violations existing under Article I of this Chapter.

(c) If any building, structure, part of building, part of a structure, party wall, or foundation is in such condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants, it shall be ordered to be vacated.

The code official may, in his sole discretion, choose to order any one, any combination, or all of the foregoing remedies.

**Section 7. Notice from code official of unsafe condition.** (a) Whenever the code official of the city finds that any building, structure, part of building, part of a structure, party wall, or foundation situated in the city is unsafe or dangerous to the extent that it is a public nuisance, the code official shall, as set forth in this section, give notice to remedy the unsafe or dangerous condition of the building or structure. The notice shall identify the street address, the legal description, and the parcel identification number of the property where the building, structure, part of building or structure, party wall, or foundation is located. The notice shall set forth in detail the basis for the code official's finding and shall direct the owner or owners to take either of the following actions:

(1) In the case where repair is required, accomplish the specified repairs or improvements within a reasonable time set out in the notice, which time shall not be less than forty-five (45) days of the date of the notice or if the same cannot be repaired within that time to provide the code official with a work plan to accomplish the repairs, which plan shall be submitted within forty-five (45) days of the making of the notice and shall be subject to the approval of the code official.

(2) In the case where a demolition is required, demolish the building, structure, part of building or structure, party wall, or foundation within a reasonable time set out in the notice, which time shall not be less than forty-five (45) days of the notice.

(b) The notice shall state that, in the event the owner does not comply within the time specified therein, the repairs or the demolition shall be accomplished by the City and the cost thereof assessed against the property. The notice shall inform the recipients that a public hearing as provided for by Section 8 shall be held on the finding of the code official at a date, time, and location specified in the notice.

(c) The code official may also order that any building, structure, or part of building or structure ordered to be repaired or demolished be vacated along such terms as the code official deems appropriate.

(d) The code official shall give the notice required by subsection (a) of this section by all of the following means:

(1) By certified or registered mail, properly addressed and postage prepaid, to all of the following persons or entities:

a. The person or persons, firm, association, or corporation last assessing the property for state taxes to the address on file in the county tax collector's office;

b. The record property owner or owners (including any owner or owners of an interest in the property) as shown from a search of the records of the office of the judge of probate of the county at the owner or owners' last known address and at the address of the subject property;

c. All mortgagees of record as shown from a search of the records of the office of the judge of probate of the county to the address set forth in the mortgage or, if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the code official;

d. All lien holders of record as shown from a search of the records of the office of the judge of probate of the county to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the code official; and

e. Any person who is otherwise known to the city clerk or to the code official to have an interest in the property;

(2) By posting notice of the order, or a copy thereof, within three (3) days of the date of mailing required by subsection (d)(1) of this section, at or within three feet of an entrance to the building or structure. If there is no entrance, the notice may be posted at any location on the building or structure; and

(3) By recording notice of the order, or a copy thereof, in the office of the judge of probate of the Mobile County, on or before the date of mailing required by subsection (d)(1) of this section.

(e) A failure by the city council to act on the findings of the code official within one-hundred and twenty (120) days from the date of mailing required by subsection (d)(1) of this section shall constitute an abdication of the code official's findings. However, this shall in no way prevent the city from reinitiating the proceedings authorized by this article at any time so long as all the requirements of this article are satisfied anew. Furthermore, this does not require that the ordered demolition or repairs take place within ninety (90) days from the date of mailing required by subsection (d)(1) of this section.

### **Section 8. Hearing; appeal.**

(a) After the time specified in the notice provided for by Section 7 but no less than fifty (50) days from the date the notice is given as provided for by Section 7, whichever is later, if the owner of any property cited hereunder fails to comply with the notice prescribed, the city council shall hold a public hearing to receive any objections to the finding by the code official that the building or structure is unsafe to the extent of becoming a public nuisance. A written request for a public hearing is not necessary. At the public hearing, the city council shall also receive any written objections to the finding by the code official. Any such written objection must be submitted to the city clerk prior to the start of the city council meeting at which the public hearing is held. No action shall be taken on the finding of the code official until determination thereon is made by the city council.

(b) Upon holding the hearing, the city council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If it is determined by the city council that the building or structure is unsafe to the extent that it is a public nuisance, the city council shall take either of the following actions:

(1) In the case where repair is required, order repair of the building at the expense of the city and assess the expenses of the repair on the land on which the building stands or to which it is attached.

(2) In the case where a demolition is required, order demolition of the building at the expense of the city and assess the expenses of the demolition on the land on which the building stands or to which it is attached.

The city council may also order that any building, structure, or part of building or structure to be repaired, or demolished be vacated along such terms as the city council deems appropriate.

(c) Any person aggrieved by the decision of the city council at the hearing may, within ten (10) days thereafter, appeal to the Circuit Court of Mobile County upon filing with the clerk of the Circuit Court of Mobile County, notice of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk. Upon filing of the notice of appeal and approval of the bond, the circuit clerk of the court shall serve a copy of the notice of appeal on the city clerk, and the appeal shall be docketed in the circuit court and shall be a preferred case therein. The city clerk shall, upon receiving the notice, file with the circuit clerk a copy of the findings and determination of the city council in its proceedings. Any trials shall be held without jury upon the determination of the city council that the building or structure is unsafe to the extent that it is a public nuisance.

(d) After fourteen (14) days of the decision of the city council, if a repair or demolition is ordered by the city council and if an appeal has not been taken to the circuit court as provided for by subsection (c)

of this section, then the repair or demolition may be accomplished by the city by the use of its own forces, or it may provide by contract for the repair or demolition. In the event that an appeal is taken to the circuit court as provided for by subsection (c) of this section, once a judgment authorizing a repair or demolition becomes final as provided by law, then the repair or the demolition may be accomplished by the city by the use of its own forces, or it may provide by contract for the repair or the demolition.

(g) Nothing in this article shall prevent the city from reinitiating the proceedings authorized by this article at any time so long as all the requirements of this article are satisfied anew.

(h) The city may sell or otherwise dispose of salvaged materials resulting from any demolition pursuant to this article.

**Section 9. Fixing of costs.** (a) Upon repair or demolition of the building or structure, the code official shall make a report to the city council of the cost thereof by tendering a copy of the report to the city clerk. The city clerk shall distribute a copy of the report to the members of the city council. The proceeds of any moneys received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of demolition. The city clerk shall set the report of costs for a public hearing at a meeting of the city council.

(b) The city clerk shall give no less than ten (10) days' notice of the meeting at which the fixing of the costs is to be considered by first class mail to all persons or entities listed in Section 7. Notice shall be deemed complete upon mailing.

(c) Any person, firm, or corporation having an interest in the property may be heard at the meeting as to any objection to the fixing of the costs or the amounts thereof.

(d) Following the public hearing, the city council shall adopt a resolution fixing the costs which it finds were reasonably incurred in the repair or the demolition and assessing the costs against the lot or lots, parcel or parcels of land upon which the building or structure was located (the final assessment).

**Section 10. Lien; payment of assessments.** (a) The final assessment for any abatement accomplished pursuant to this article once made and confirmed by the city council shall constitute a lien on the property for the amount of the final assessment. The lien shall be superior to all other liens on the property except liens for taxes, and shall continue in force until paid.

(b) Payment of a final assessment resulting from a repair accomplished pursuant to this article shall be made in the manner and as provided in Code of Ala. 1975, § 11-53B-7, as the same has heretofore or may hereafter be amended.

(c) The city clerk shall file a certified copy of the resolution in the office of the judge of probate of Mobile County.

(d) Upon the property owner's failure to pay the assessment, and when a final assessment remains unpaid for six months, the city may foreclose and sale the lien as provided for in Article V of this Chapter.

(e) In the alternative, the code official may direct the office directed by the city to collect the assessments to file a certified copy of the resolution with the county tax collector's office and elect to have the tax collector or revenue commissioner collect the assessment by adding the assessment to the tax bill. Upon the election, the tax collector or revenue commissioner shall collect the assessment using all methods available for collecting ad valorem taxes and remit the municipal lien payoff amount to the City.

(f) The city may assess the final assessment against any lot or lots, parcel or parcels of land purchased by the state at any sale for the nonpayment of taxes, and where the assessment is made against the lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem, or sale thereof by the state, shall not operate to discharge or in any manner affect the lien of the city for the assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the state for the nonpayment of taxes, shall take the same subject to the assessment. The assessment shall then be added to the tax bill of the property, collected as a tax, and remitted to the city.

**Section 11. Emergency Action.** (a) The code official is hereby authorized to initiate the immediate repair or demolition of a building, structure, or portion thereof when in the opinion of the code official such emergency action is required due to imminent danger of structural collapse endangering adjoining property, the public right-of-way, or human life or health. In the case of emergency action pursuant to this subsection, the code official shall promptly cause such building, structure, or portion thereof to be made safe, secured, or removed. For this purpose, the code official may at once enter such structure with such assistance and at such cost as the code official may deem necessary. The code official may vacate adjacent structures and protect the public by appropriate fence or such other means as may be necessary, and for this purpose, the code official may close a public or private way.

(b) To the extent that the circumstances allow without furthering the risk of harm or danger, prior to taking any action, the code official or the city council as applicable shall attempt to give actual notice of the proposed action to those persons and/or entities identified in section 7 and seek to secure their cooperation.

(d) In the case of any action taken pursuant to this section, the code official shall prepare a declaration of the emergency that shall set forth in detail the reason or reasons for emergency repair or demolition. The declaration shall identify the street address, the legal description, and the parcel identification number of the property where the building, structure, or portion thereof is located. The code official shall serve, post, and file the declaration as soon as practicable as provided for the service of a notice in section 7. The code official shall also provide the declaration to the city council by tendering a copy of the report to the city clerk. The city clerk shall distribute a copy of the report to the members of the city council.

(e) The cost of the emergency action shall be fixed by the city council and shall be assessed pursuant to this article in the same manner provided for non-emergency repairs, moves, or demolitions.

(f) In cases of emergency action pursuant to this section, the decision of the code official and/or the city council, as applicable, shall be final, and there shall be no right to appeal the decision of the code official and/or the city council, as applicable, in the case of an emergency.

**Section 12. Duties of the fire department.**

The employees of the fire department shall make a report in writing to the building inspector official of all buildings or structures which are, may be, or are suspected to be dangerous buildings. Such reports must be delivered to the code official within seventy-two (72) hours of the discovery of such buildings by an employee of the fire department.

**Section 13. Duties of the police department.**

All employees of the police department shall make a report in writing to the building inspector official of all buildings or structures which are, may be, or are suspected to be dangerous buildings. Such reports must be delivered to the code official within seventy-two (72) hours of the discovery of such buildings by an employee of the police department.

**Section 14. Cumulative effect.**

This article is cumulative in nature and is in addition to any power and authority that the city may have under any other law.

**CHAPTER 52, ARTICLE III: ABATEMENT OF HIGH WEEDS AND GRASS AND LOT CLEARING**

Division I: Generally

**Section 1. - Title and purpose.** This article is adopted pursuant to the authority of chapter 67 of title 11 of the Code of Alabama and shall be known and may be cited as the "Abatement of High Weeds and Grass and Lot Clearing Ordinance of the City of Mobile." In order to serve public health, safety and welfare, the declared purpose of this article is to prohibit and order the abatement of certain public nuisances within the city which are defined by this article.

**Section 2. - Definitions.** As used herein:

"Code official" means the city building inspector official, any city building official or deputy and any other city official or city employee designated by the mayor as the person to exercise the authority and perform the duties delegated by this article. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the Mayor, the Code Official shall have the authority to designate enforcement officers, inspectors and other employees. Such employees shall have powers as delegated by the code official.

"Excluded properties" consists of heavily wooded areas, areas in their natural state (i.e., not previously developed in any manner), property under current construction and farm properties (except as designated elsewhere in this article).

“Liability” means responsibility for any damages that may occur during cutting and/or debris removal upon or from private property.

“Occupant” is the owner, tenant or person in possession or charge of any house, building, store, shop, lot or premises.

Owner is any person, agent, firm or corporation having legal title to the real property, including any mortgage holder, bank, lien holder, , company, institution, individual or other entity listed in the records of the Office of the Judge of Probate of Mobile County, and /or the estate of any deceased owner(s), and / or the last assessed owner in the property tax records of the Mobile County Revenue Commissioner.

“Person” means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, business or any entity recognized by law.

“Premises” are any buildings or real property.

“Private property” is any real property owned by any person as defined herein.

“Private contractors” means individuals or groups of individuals maintaining a current business license from the city for lawn and garden care in accordance with city license code section 229.2 and listed by resolution and approved by the city council.

“Public access” means that the property to be cut/cleaned must have access to subject property from public road, right-of-way or easement without removing any fence or other surrounding structure. Access to subject property may be obtained via adjoining noninvolved property pursuant to Code of Alabama, Section 11-67-1 et seq.

“Public nuisance” means any growth of weeds, scrub (wild) bushes and grass exceeding community standards, normally ten (10) inches in height and/or nonorganic debris that presents a fire hazard, a health hazard, a safety hazard or otherwise endangers surrounding areas. Vacant lot means any area of land that either has no structure upon it or has an unoccupied structure, whether that unoccupied structure be business or residential, upon the premises. A vacant lot will encompass adjoining and/or included rights-of-way, easements, ditches and alleyways.

### **Section3. Duty to Maintain and Prevent.**

(a) It shall be the duty of any owner or occupant of property within the city to at all times cut and mow the grass and weeds on their respective property and in the space between the property line and the curblin in front, rear and alongside thereof, so that neither grass nor weeds shall rise above the height of 10 inches, and shall cause the removal of any cuttings or mowings.

(b) It shall be the duty of any owner or occupant of property within the city to at all times destroy and remove poison oak, poison ivy, poison sumac, or similar noxious plants or growths from their respective property. For purposes of the division, destroy shall mean the complete killing of the plants or growths above the surface of the ground by the use of chemicals, cutting, tillage or any combination of those methods that will effectively prevent the growth from maturing and spreading.

(c) It shall be the duty of any owner or occupant whose property abuts a city right-of-way to keep any sidewalks and city right-of-way between the street and their property line mowed and free of junk, litter and debris.

**Section 4. Failure to Maintain.** Private property retained or maintained in violation of this article shall be declared a “public nuisance” and will be abated by the city as set forth in this article and consistent with the procedures set forth in Chapter 67 of Title 11 of the Code of Alabama.

**Section 5. Exempt properties.** Property consisting of more than five (5) contiguous acres shall be considered farm property and exempt from cutting or mowing, except as hereinafter provided. Such designated farm property, when the property is not under cultivation for useful purposes, shall be required to maintain an area of fifty (50) feet (including any adjoining rights-of-way or easements) from the abutting property lines of any and all abutting residential or business property, and from adjoining public road or street, which area shall be in compliance as set forth above. Excluded properties shall also be exempt from the cutting or mowing requirements of this article.

**Section 6. When nuisance may be declared.** All high grass and weeds growing upon the streets, sidewalks or upon private property within the city which bear seeds of a wingy or downy nature, which attain such a growth of ten (10) inches or taller, which become a fire menace when dry, or which are otherwise noxious or dangerous, may be declared to be a public nuisance by the city council, and thereafter abated as hereinafter provided.

**Section 7. Declaration, Resolution and Abatement Order.** Whenever any high grass and weeds in excess of 10 inches are growing upon any street, sidewalk or private property the city council may, by resolution, declare the same to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known, describe the property upon which or in front of which the nuisance exists by giving a legal description thereof and no other description of the property shall be required. Any number of streets, sidewalks or parcels of private property may be included in one (1) and the same resolution.

**Section 8. Notice of Hearing.**

(a) Prior to the passage of the resolution, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed a minimum of thirty (30) days prior to the date of the public hearing and shall inform the owner of the time, date and place of the public hearing and reason therefor. The notice shall be mailed to the owner of the property as same appears of record in the revenue commissioner's office.

(b) All notices shall carry a list of names of persons and/or private contractors who perform such work and are registered with the city clerk. Such names shall not constitute a recommendation and the failure to include such a list shall not affect the operation of this article in any manner.

(c) Notice shall also be given by publication in a newspaper of general circulation published in the city once a week for two (2) consecutive weeks, or if no newspaper is published in the city, notice shall be posted in three (3) public places located in the city for at least twenty-one (21) days prior to the hearing. The first notice shall be published at least fourteen (14) days prior to the date of the scheduled public hearing. The wording of the newspaper notice shall be in substantially the following form:

**NOTICE TO DESTROY WEEDS AND/OR CLEAR PRIVATE PROPERTY OF JUNK, LITTER OR DEBRIS**

Notice to the owner(s) of property located at: \_\_\_\_\_

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ A.M./P.M. in the council chamber, the council of the City of Mobile will consider a resolution regarding the weeds growing upon or in front of the property and or the accumulation of junk, litter or debris on \_\_\_\_\_ in the City of Mobile, and more particularly described in said resolution, a copy of which is on file in the office of the city clerk; and at that time and place will determine whether the same constitutes a public nuisance which must be abated by the removal of said noxious or dangerous weeds and/or the clearing of junk, litter or debris; and, if so, will order the abatement (removal and clearing) of said nuisance(s), in which case the cost of such abatement shall be assessed upon the lots and lands from which or in front of which such weeds are removed, and such cost will constitute a lien for weed removal upon such lots or lands until paid.

If no objections are filed with the city clerk at least five days before the meeting of said council and unless such person appears before the council in person or through his or her representative to show cause, if any, why his or her objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he or she may have to contest the removal of said weeds and the action of the council shall be final unless good and sufficient cause can be otherwise shown.

Reference is hereby made to said resolution, on file in the office of the city clerk, for further particulars.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(d) In addition thereto, a minimum of two (2) signs shall be conspicuously posted on the property. The caption of the signs shall not be less than one (1) inch in height and shall be in substantially the same form as expressed in Code of Ala. § 11-67-62.

(e) The notice shall be posted at least seven (7) days prior to the time for hearing objections by the city council.

**Section 9. – Hearing; decision of City Council.** The city council shall, at the time stated in said notice, hear and consider all evidence, objections and protests regarding the proposed removal of high weeds and grass and/or clearing of the lot. The council may continue the hearing from time to time, as needed. Upon the conclusion of the hearing, the council, by resolution, shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part

thereof described. The city council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to such property or part thereof. The decision of the governing body on the matter shall be deemed final and conclusive.

**Section 10. -Right of entry – Private Contractors.**

(a) After the council passes the resolution finding the conditions of the property to be a nuisance and ordering its abatement, all employees and duly authorized agents of the city are hereby expressly authorized to enter upon private property for that purpose.

(b) The city may at its option authorize private contractors, companies, enterprises or individuals to abate and remove the nuisance. The council, by resolution, shall designate the contractors, companies, enterprises or individuals who may perform the work. Those persons so designated are hereby authorized to enter upon private property for purposes of abating or removing the nuisance pursuant to Code of Alabama, section 11-67-1 et seq. For purposes of this article and Code of Alabama, section 11-67-1 et seq., compliance with the competitive bid law is not required.

(c) Any property owner shall have the right to have any such weeds removed at his own expense providing the same is done prior to the commencing of the work by the employees or agents of the city.

Division Two: Administrative Procedures

**Section 11 - Groups of lots to be abated.** Groups of lots and parcels to be abated under this Article will be established fairly and equitably taking into consideration the following criteria:

(1) A comparable disbursement of property to begin with, based upon square footage, within each group, and

(2) As minimal a traveling distance between lots and parcels within each group as possible.

**Section 12. Charges.** (a) The following charges will be established for cutting/cleaning of properties designated as a public nuisance by the city council under provisions of this article and Code of Alabama, Section 11-67-1 et seq.:

☐ Per square foot cut ..... \$ 0.0125

☐ Per cubic yard debris removal ..... 5.00

☐ Cumulative penalty beginning with the third public nuisance resolution within a twenty-four-month period ..... 50.00

Administrative charges are to accrue as follows:

☐ If the lot is cut after the courtesy letter has been issued and during the fifteen-day grace period ..... none

☐ If the lot is cut after the nuisance letter is issued and during the thirty-day grace period ..... 35.00

☐ If the lot is posted and the owner cuts the lot before the seven-day grace period and the public hearing ..... 35.00

☐ If the lot is cut by the contractor ..... 45.00

☐ Plus, per square foot to cover invoices ..... 0.0125

☐ If the lot is cut by the city ..... 45.00

☐ For every additional time a lot is cut by the City or a contractor within a 36 month period from the date of the initial nuisance declaration, administrative charges will increase by a \$100 per abatement.

☐ If the lot is cut by the City or a contractor twice within an 18 month period, 150.00

☐ If the lot is cut by the City or a contractor three times within an

(b) In the event that subject property is brought into complete compliance with this article after the property is declared a public nuisance and prior to the private contractor or city crew being dispatched for cutting, the property will not be cut; however, the assessed owner will be subject to and liable for the administrative charges which will be collected in the same manner as other charges in accordance with this article and Code of Alabama, Section 11-67-1 et seq.

(c) In the event that subject property is not brought into complete compliance with this article prior to the date designated by the city council for the property to be delegated to a private contractor or city crew for cleaning, subject property will be completely cleaned and a "weed lien" shall be assessed against the property in the amount of administrative charges and cleaning costs in accordance with this article and Code of Alabama, Section 11-67-1 et seq.

(d) Prior to a vacant lot being declared a public nuisance by the city council, a private contractor and individual property owners may mutually contract for the regular maintenance of subject property at a different rate from those prescribed in this article by the city. However, once such property is declared a public nuisance by the city council, the areas must be in compliance with this article.

(Ord. No. 24-074, Art. III, § 2, 7-5-88; Ord. No. 24-014, Art. III, § 2, 2-28-90)

### **Section 13 - Rotation list of private contractors.**

(a) An initial list of private contractors seeking to be placed by city council resolution on a list of contractors to be utilized by the city to abate property declared a public nuisance will be fairly and equitably established. The method of selection of a private contractor for each succeeding group will be a method of rotation. The list of contractors will be referred to as a rotation list.

(b) Upon a private contractor's name arriving at the top of the rotation list, he/she will be offered the next available group of public nuisance abatements. Upon acceptance of the group, the private contractor will:

- (1) Be required to show proof of current city business license;
- (2) Be required to show proof of current liability insurance in the amount normally required by the city; and
- (3) Be required to complete all abatement work within fifteen (15) days of acceptance of group.

(c) After completion of the group the private contractor will move to the bottom of the list for future rotation in turn upwards.

(d) Private contractors seeking to be placed on the rotation list after the initial list has been established will be placed at the bottom of the list in the order of contact, upon compliance with the requirements set forth under this article.

(e) Private contractors refusing a group at the time of their rotation to the top of the list will be placed at the bottom of the list and will not be called until they move upward in a normal succession to the top of the rotation list. Two (2) consecutive refusals of a group by a contractor will subject the contractor's name to be removed from the rotation list for a period of two (2) years.

(f) Acceptance of a group will constitute an agreement on the part of the private contractor to abide by this article, Code of Alabama, Section 11-67-1 et seq. and all administrative policies or procedures which may be established by the city from time to time.

(g) The amount of litter, junk and debris to be removed from the lots/parcels will be mutually agreed upon between the private contractor and the city upon acceptance of the group and such agreement will be binding.

(Ord. No. 24-074, Art. III, § 3, 7-5-88; Ord. No. 24-014, Art. III, § 3, 2-28-90)

#### **Section 14 - Liability.**

Private contractors seeking to participate in this program in accordance with this article and Code of Alabama, Section 11-67-1 et seq., shall be required to provide proof of liability insurance in the amounts routinely required by the city for similar projects, prior to being listed as a private contractor with the city council and will provide proof of current liability insurance upon request and will accept responsibility for any damages to subject lots and surrounding areas which may occur during the cutting/cleaning of subject property. The insurance policy shall contain an endorsement that the same shall not be canceled without giving to the city ten (10) days' written notice of any proposed cancellation thereof.

(Ord. No. 24-074, Art. III, § 1, 7-5-88; Ord. No. 24-014, Art. III, § 1, 2-28-90)

**Section 15. - Verification and payment of private contractor.**

(a) Upon the private contractor bringing all lots/parcels in a group into complete compliance within the required fifteen (15) days, the private contractor will submit a request for payment along with verification of cutting/cleaning (i.e., dated "before" and "after" photographs).

(b) Payment will not be made for any cutting within a group unless the entire group is brought into complete compliance within the specified period of time allowed following all requirements of this article, and established policies and procedures.

(c) Upon compliance with requirements as set forth, payment will be made by the city to the private contractor at the established rate stated in this article, as applicable.

(Ord. No. 24-074, Art. III, § 5, 7-5-88; Ord. No. 24-014, Art. III, § 5, 2-28-90)

**Section 16 – Confirmation of costs; collection; appeal.**

(a) The city shall keep an account of the cost of abating each nuisance in front of or on each separate lot or parcel of land where lot cleaning work is completed by it or its employees, or by a duly authorized private contractor, company, enterprise or individual, and shall render a written itemized report to the city council showing the cost of removing a particular nuisance; provided that before the report is submitted to the governing body, a copy of the same shall be posted for at least five (5) days prior thereto on or near the chamber door of the governing body, together with a notice of the time when the report shall be submitted to the governing body for confirmation.

(b) Prior to the time fixed for the city council to receive and consider the report, the administrative appeal process of filing, hearing and ruling upon complaints and objections shall have been completed. All appeals of lot cleaning assessments totaling less than five hundred dollars (\$500.00) shall be filed with and heard by the executive director of public works, or his designee, and his decision shall be final. Where the lot cleaning assessment totals more than five hundred dollars (\$500.00), the decision of the executive director of public works, or his designee, shall be appealable to the city council, at the property owner's request upon filing a timely notice with the city clerk at least seven (7) days prior to the time fixed by the city council to receive and consider the report of an intent to appear before the city council.

(c) At the time fixed for receiving and considering said report, the governing body shall hear the same, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating said nuisance and thereupon make such modifications in the report as they deem necessary, after which by motion or resolution said report shall be confirmed. The amounts of the cost for abating such nuisance in front of or upon the various parcels of land mentioned in said report shall hereinafter be referred to as "weed and lot clearing liens," and as thus made and confirmed shall constitute a lien on said property for the amount of such lien(s), respectively. After confirmation of the report, the city clerk shall file a certified copy of the resolution in the office of the judge of probate of Mobile County.

(d) The city shall attempt to collect the "weed and lot clearing lien."

(e) If this attempt by the city proves futile, a copy of the "weed and lot clearing lien" confirmation report may be turned over to the revenue commissioner who, under the "optional method of taxation," is charged with the collection of the city's municipal taxes pursuant to Code of Alabama, Sections 11-51-40 through 11-51-74, (1975). In the event the "weed lien" is turned over to the revenue commissioner, it shall be the duty of the revenue commissioner to add the amount of the respective "weed and lot clearing liens" to the next regular bill for taxes levied against the respective lots and parcels of land, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency pursuant to Code of Alabama, Sections 11-51-40 through 11-51-74 (1975), as set forth in Code of Alabama, Section 11-67-1 et seq.

(f) In the alternative, upon the property owner's failure to pay the "weed and lot clearing lien", and when a "weed and lot clearing lien" remains unpaid for six months, the city may foreclose and sale the lien as provided for, and subject to the limitations, found in Article V of this Chapter.

(Ord. No. 24-074, Art. III, § 6, 7-5-88; Ord. No. 24-014, Art. III, § 6, 2-28-90)

Division Three: Abatement of repeat overgrown high grass and weed nuisances.

**Section 17. - Declaration of repeat high grass and weed nuisance.** If the code official determines that a condition of overgrown high grass or weeds exists on any property in violation of this article and that the overgrown high grass or weeds on such property have previously been subject to abatement within the three (3) years immediately preceding such determination through the procedures as set forth in the foregoing sections of this Article and Code of Alabama, Section 11-67-1 et seq. , then the code official may declare the condition to be a nuisance.

(Ord. No. 11-058-2015, § 1, 6-2-15)

**Section 18. - Resolution, publishing, notice-posting not required.** The code official may make the determinations contemplated by section 9 of this article without a resolution by the council declaring the condition to be a nuisance, without having to publish any notice in a newspaper or otherwise, and without posting notice on the property, and said declaration shall be final.

(Ord. No. 11-058-2015, § 2, 6-2-15)

**Section 19. - Notification of owners.** After the determinations contemplated by section 9 have been made, the mayor, or his or her designee, shall send a letter to the last known address of the property owner or owners by regular United States mail not less than ten (10) days prior to issuance of any order to abate the nuisance. The notice shall inform the owner or owners of all of the following:

- (1) That the mayor, or his or her designee, has declared the property to be a nuisance;
- (2) That the city has previously abated a nuisance on the property within the previous three (3) years;

(3) That the reasonable cost of the current abatement shall be assessed and collected as a special assessment and lien against the property; and,

(4) That the property owner or owners may have the nuisance removed at their own expense prior to the arrival of the employees, contractors, or designees assigned by the city to abate the nuisance.

(Ord. No. 11-058-2015, § 3, 6-2-15)

**Section 20. - Time period for notification.** Following the expiration of ten (10) days after the letter required by section 19 has been sent, the code official may take such actions as are necessary to abate the nuisance.

(Ord. No. 11-058-2015, § 4, 6-2-15)

**Section 21. - Abatement; Cost of abatement.** For properties requiring repeated abatement of overgrown high grass and weeds as set forth in sections 17-20, the abatement shall be conducted as provided for in Section 10-15. Costs shall be determined according to the schedule set forth in section 12. The governing body shall confirm the costs of the abatement as set for the in section 16 and the costs of the abatement shall be assessed and collected as a special assessment and lien in the same manner as set forth in this article and consistent with the procedures set forth in Code of Ala. tit. 11, ch. 67.

(Ord. No. 11-058-2015, § 7, 6-2-15)

Secs.24 25. - Reserved.

## **Chapter 52, ARTICLE IV - ABATEMENT OF GENERAL REAL PROPERTY NUISANCES and LOT MAINTENANCES**

### **Section 1. - Title and purpose.**

This article is adopted pursuant to the authority of chapters 47 and 67 of title 11 of the Code of Alabama and shall be known and may be cited as the "Abatement of General Real Property Nuisances and Lot Maintenance Ordinance of the City of Mobile." In order to serve public health, safety and welfare, the declared purpose of this article is to prohibit and order the abatement of certain public nuisances within the city which are defined by this article.

### **Section2. - Definitions.**

As used herein:

"Excluded properties" consists of heavily wooded areas, areas in their natural state (i.e., not previously developed in any manner), property under current construction and farm properties (except as designated elsewhere in this article).

“Debris” is rubble, wreckage, ruins, litter and/or discarded, destroyed and scattered garbage, refuse or trash, whether organic matter or not.

“Foul water” means water that has an offensive odor, is visibly filled with algae or is polluted with oil or other pollutants.

“Front yard” means the yard extending across the entire width of the lot between the main building, including covered porches, and the front lot line; or if an official future street right-of-way line has been established, between the main building including covered porches and the right-of-way line. On corner lots, the narrower side shall be considered the front regardless of the location of the main entrance of the dwelling. Where both frontages of the lot are equal, the front yard shall be considered the side on which the majority of the lots front in the block.

“Garbage” is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption.

“Graffiti” means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the city council.

“Graffiti implement” means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark or sign on any natural or manmade surface.

“Household solid waste” is garbage and man-made solid waste generated on residential premises.

“Junk” means all vehicles, vehicle parts, rubber tires, appliances, dilapidated furniture, machinery equipment, building material or other items which are either in a wholly or partially rotted, rusted, wrecked, junked, dismantled or inoperative condition. A vehicle will be considered inoperative for the purposes of this section if either (i) it is an “Inoperable Motor Vehicle” as defined in Article I, section 202 herein, or, (ii) it cannot be safely operated or if it is incapable of being moved under its own power or if it may not be legally operated due to lack of any legal requirement including an expired license plate. Junk vehicle is a vehicle with one (1) or more of the following characteristics: it is non-operating, abandoned, wrecked, or partially dismantled; or it has flat tires, or a missing engine, door(s), hood, windows or other missing body parts.

“Improved subdivision” means a division of a tract of land or acreage into tracts or parcels, and the improvement thereof by construction of streets, water lines and, where applicable, sewer lines to serve the subdivided property.

“Litter” is any garbage, refuse, noncontainerized man-made solid waste, including but not limited to paper, plastic, diapers, cigarette butts, bottles, cans, glass, crockery, scrap metal, construction materials, rubbish, disposable packages or containers.

“Liability” means responsibility for any damages that may occur during cutting and/or debris removal upon or from private property.

“Occupant” is the owner, tenant or person in possession or charge of any house, building, store, shop, lot or premises.

“Owner” is any person, agent, firm or corporation having legal title to the real property, including any mortgage holder, bank, lien holder, , company, institution, individual or other entity listed in the records of the Office of the Judge of Probate of Mobile County, and /or the estate of any deceased owner(s), and / or the last assessed owner in the property tax records of the Mobile County Revenue Commissioner.

“Person” means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, business or any entity recognized by law.

“Premises” are any buildings or real property.

“Private property” is any real property owned by any person as defined herein.

“Private contractors” means individuals or groups of individuals maintaining a current business license from the city for lawn and garden care in accordance with city license code section 229.2 and listed by resolution and approved by the city council.

“Public access” means that the property to be cut/cleaned must have access to subject property from public road, right-of-way or easement without removing any fence or other surrounding structure. Access to subject property may be obtained via adjoining noninvolved property pursuant to Code of Alabama, Section 11-67-1 et seq.

“Public nuisance” means any growth of weeds, scrub (wild) bushes and grass exceeding community standards, normally ten (10) inches in height and/or nonorganic debris that presents a fire hazard, a health hazard, a safety hazard or otherwise endangers surrounding areas.

“Trash” is nonputrescible solid wastes consisting of yard clippings, leaves, wood, tree limbs and trunks, bedding, appliances, paper and cardboard, plastics, wood, wrappings, cans and similar materials.

“Vacant lot” means any area of land that either has no structure upon it or has an unoccupied structure, whether that unoccupied structure be business or residential, upon the premises. A vacant lot will encompass adjoining and/or included rights-of-way, easements, ditches and alleyways.

### **Section 3; Duty to Maintain and Prevent.**

- (a) It shall be the duty of any owner or occupant of any property within the city to keep the property free and clear of nuisances, including but not limited to the following:
  - a. Abandoned, dilapidated, junked or wrecked motor vehicles;

- b. Ice boxes, refrigerators, or stoves;
- c. Rubbish, litter, trash, garbage, junk or refuse;
- d. Broken glass, abandoned building materials, building debris or rubbish, or abandoned household furniture or fixtures.
- e. Hereinafter and for the purposes of this article the nuisances set out in a. through d. above, shall be known collectively as “Junk, Litter and Debris”:

- (b) It shall be the duty of any owner or occupant of property within the City to at all times remove and, thereafter, prevent the accumulation of Junk, Litter and Debris on the property.
- (c) It shall be the duty of any owner or occupant of property within the city to at all times cut and mow the grass and weeds on their respective property and in the space between the property line and the curblin in front, rear and alongside thereof, so that neither grass nor weeds shall rise above the height of 10 inches, and shall cause the removal of any cuttings or mowings.
- (d) It shall be the duty of any owner or occupant of property within the city to at all times destroy and remove poison oak, poison ivy, poison sumac, or similar noxious plants or growths from their respective property. For purposes of the division, destroy shall mean the complete killing of the plants or growths above the surface of the ground by the use of chemicals, cutting, tillage or any combination of those methods that will effectively prevent the growth from maturing and spreading.
- (e) It shall be the duty of any owner or occupant whose property abuts a city right-of-way to keep any sidewalks and city right-of-way between the street and their property line mowed and free of Junk, Litter and Debris.

**Section 4. - Nuisance prevention standards.**

- (a) It shall be the duty and responsibility of every property owner or occupant to keep the property clean and to remove from the property all such abandoned items as listed in section 2, including but not limited to weeds with a growth higher than ten (10) inches, fallen dead trees, garbage, etc.
- (b) Failure to comply with this article shall result in enforcement procedures pursuant to Section 12 and/or the property being declared a public nuisance and thereafter abated as provided for herein.
- (c) Any property where Junk, Litter and Debris has accumulated and presents a risk to public health or safety may be declared a public nuisance and thereafter abated as provided herein.

(Ord. No. 24-074, Art. II, § 2f, 7-5-88; Ord. No. 24-014, Art. II, § 2f, 2-28-90; Ord. No. 25-032-2015, § 1, 3-17-15)

**Section 5 – Keeping of junk vehicles.** It shall be a violation of this article for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, to allow any junk vehicle to remain on such property.

**Section 6. - Exempt properties.** Property consisting of more than five (5) contiguous acres shall be considered farm property and exempt from cutting or mowing, except as hereinafter provided. Such designated farm property, when the property is not under cultivation for useful purposes, shall be required to maintain an area of fifty (50) feet (including any adjoining rights-of-way or easements) from the abutting property lines of any and all abutting residential or business property, and from adjoining public roads or streets, which area shall be in compliance as set forth above. Excluded properties shall also be exempt from the cutting or mowing requirements of this article.

**Section 7. - Right of entry for inspection.**

Whenever the code official of the city has reasonable cause to believe that a condition prohibited by this article exists, employees and duly authorized agents of the code official shall have the right to enter the private property in question for the purpose of inspecting the property. Reasonable cause may be established by, but is not limited to, the filing of an oral or written complaint with the city.

**Section 8. - Notice of public hearing to approve abatement and assess costs.**

(a) Whenever a condition prohibited by this article is found to exist on private property within the city, the code official shall declare the condition a public nuisance and cause a written notice to be mailed by first class mail to "Occupant" at the address of the property upon which the nuisance exists and to the owner of said property as the information is listed in the records of the Judge of Probate of Mobile County and the tax assessor or revenue commissioner. If the property is a vacant lot, written notice will be mailed by first class mail to the owner of said property as the information is listed in the records tax assessor or revenue commissioner.

(b) Said notice shall contain the following:

- (1) A description of the real property, by street address or otherwise, on which the nuisance exists;
- (2) A direction to abate the nuisance within ten days from the date of the notice;
- (3) A description of the nuisance;
- (4) A statement that unless the nuisance is abated, the city will abate the nuisance and the cost of abatement may be assessed against the property and may be added to the next regular taxes levied against the property or the subject of a lien foreclosure action against the property;

(5) The date of the regularly scheduled city council meeting in which a resolution will be presented to the city council to approve the abatement of the nuisance and authorize assessment of the cost of abatement;

(6) A statement regarding the procedure for filing an objection to abatement of the nuisance and assessment of the cost of abatement against said property;

(7) A statement that an administrative fee of \$150.00 also shall be assessed upon the property if the nuisance is not abated within ten days of the notice to the owner and may be added to the next regular taxes levied against the property or included in a lien foreclosure action against the property; and

(8) A statement that failure to abate the nuisance with ten days from the date of the notice may result in criminal prosecution.

(c) In addition, a sign entitled "Notice to Abate Nuisance" shall be conspicuously posted on the property where the nuisance exists notifying the owner/occupant that a nuisance exists and that the city will take action to abate said nuisance if the nuisance is not abated within ten days.

#### **Section 9. - Public hearing and objections to abatement of nuisance.**

(a) Filing of timely objection to condition declared a nuisance.

(1) The owner, occupant, lessee or person in control of said property may file an objection to the declaration by the city that the condition constitutes a nuisance by notifying in writing the code official or his representative at least four business days prior to the date of the regular scheduled meeting of the city council for which the resolution ordering the abatement of the nuisance and assessing the cost of abatement has been scheduled.

(2) The owner, occupant, lessee or person in control of said property shall also file the objection to the declaration by the city that the condition constitutes a nuisance by notifying in writing the city clerk's office at least four business days prior to the date of the regular scheduled meeting of the city council for which the resolution ordering the abatement of the nuisance and assessing the cost of abatement has been scheduled.

(b) The city council shall hear and consider all evidence, objections, and protests regarding whether or not the condition constitutes a nuisance and whether same should be ordered abated or removed. The city council may continue the hearing from time to time. Upon the conclusion of the hearing, the city council shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The city council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and to perform or have performed the work of removal or abatement with respect to the property or part thereof. The decision of the city council on the matter shall be deemed final and conclusive.

(c) If a timely objection is not filed with the city clerk or the code official or his representative or if the owner, occupant, lessee or person in control of the property fails to appear at the hearing, no additional public hearing will be held on an individual property and abatement of the nuisance will proceed and costs of the abatement assessed. In such instance, the city council shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to the property or part thereof and the decision of the city council shall be deemed final and conclusive.

**Section 10. - Collection of nuisance or weed liens.**

(a) The code official shall keep an account of the cost of abating or removing a nuisance where the work is done by a city employee or a private contractor.

(b) The amounts of the cost for abating the nuisance on the various parcels of land mentioned in the report shall hereinafter be referred to as "nuisance or weed liens," and shall constitute a nuisance or weed lien against the property for the amount of the abatement of said nuisance. After confirmation of the reports, a copy shall be given to the appropriate official who is charged with the collection of taxes or assessments. It shall be the duty of said official to attempt to collect the "nuisance or weed liens" and /or add the costs of the respective nuisance or weed liens to the next regular bills for taxes levied against the respective lots and parcels of land subject to each nuisance or weed lien. Thereafter, the costs shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency. In cases where cost for the abatement has been paid for by another source other than the city, no nuisance or weed lien may be placed against the owner's property.

(c) The city may assess the abatement costs authorized against any lot or lots or parcel or parcels of land purchased by the state or any purchaser at any sale for the nonpayment of taxes and where an assessment is made against a lot or lots or parcel or parcels of land, a subsequent redemption thereof by a person authorized to redeem or sale thereof by the state, shall not operate to discharge, or in any manner affect the nuisance or weed lien for the assessment, but a person redeeming the property or purchaser at a sale by the state of any lot or lots or parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the state or purchaser for the nonpayment of taxes, shall take the same subject to the assessment.

(d) The City shall retain in all cases the ability to foreclose liens as provided for, and subject to the limitations therein, by Article V of this Chapter.

**Section 11. - Administrative cost of abatement.**

(a) If the nuisance is not abated within ten days of the date of the notice, there shall be an administrative fee \$150.00, which shall be added to the actual cost for abatement of the nuisance and shall be included in the amount of the lien filed with the appropriate official who is charged with the collection of taxes or assessments. The administrative fee shall be assessed against the owner of the

property even if the nuisance is not ultimately abated by employees of the city. The city may collect said fee through court action or any other lawful means; however, no lien may be placed against the owner's property solely to recover administrative costs.

(b) If the city initiates the removal and abatement of multiple nuisance conditions on the same property at the same time, only one administrative fee will be assessed.

**Section 12. Criminal Enforcement procedures.**

(a) A city police officer may choose to cite and release defendant for a violation of this article. The UNTCC shall serve as the charging instrument and shall be issued in accordance with Rule 20 of the Alabama Rules of Judicial Administration.

(b) A code official or employees of the city, designated as municipal enforcement officers, may issue a municipal offense ticket (MOT) for a violation of this article. The person charged with a violation must, within the time period specified on the MOT, or within twelve (12) hours before the municipal court date shown on the MOT.

(1) Appear in person before a magistrate, sign the plea of guilty waiver of rights on the MOT, and pay the fine and applicable court costs. The magistrate shall retain a copy of the ticket; or

(2) Sign the plea of guilty waiver of rights provision on the MOT and mail or hand deliver to the clerk of the municipal court the signed page and payment for the amount of the fine and applicable court costs. Remittance by mail or hand delivery of the fine and costs constitutes a guilty plea and waiver of trial, even if the "plea of guilty waiver of rights" provision on the ticket has not been signed by the defendant. If the amount sent is insufficient, then the money received by the clerk shall be considered to be a partial payment of the penalty, and it shall be applied by the clerk to the fine and costs, and shall be deposited as required by law. The clerk may give notice of the insufficiency, and a supplemental summons or warrant of arrest shall be issued for the defendant's arrest, and a judgment shall be entered by the magistrate for the balance due; or

(3) Sign the MOT and agree to appear in court on the date and at the time shown on the MOT to protest the charges. If the defendant fails to appear, the municipal court may, in its discretion, issue further notice or a supplemental summons or warrant of arrest.

(c) The code official or employees of the city, designated as municipal enforcement officers, who observe violations of this article are further authorized to appear before a magistrate and request a summons or warrant to be issued pursuant to Rule 3.1 of the Alabama Rules of Criminal Procedure.

(Ord. No. 24-019, Art. II, § 1, 2-2-88; Ord. No. 25-063, 10-19-99; Ord. No. 25-063, 10-19-99; Ord. No. 25-054-2006, 11-28-06; Ord. No. 25-018-2014 , 6-25-14; Ord. No. 25-050-2015 , § 1, 5-12-15)

**Section 13. Notice of Violation.** A code official or enforcement officer may issue a notice of violation, as more fully described in Article I, Section 107, to owners or occupants found to be in violation of any of

the provisions of this article. It shall be a violation of this article for any owner or occupant of property in the city limits who receives a notice of violation to fail or refuse to undertake corrective action necessary to remedy the violation within the time permitted. The issuance of a notice of violation is not required prior to the issuance of an MOT or UNTCC.

(Ord. No. 24-019, Art. II, § 2, 2-2-88; Ord. No. 25-054-2006, 11-28-06; Ord. No. 25-018-2014 , 6-25-14; Ord. No. 25-050-2015 , § 1, 5-12-15)

**Section 14. – Fines and Penalties.**

(a) It shall be unlawful for any person to violate any provision of this chapter.

(b) Knowing violation of article. For any violation of this article that is committed knowingly, the fine shall be two hundred fifty dollars (\$250.00), or imprisonment for up to three (3) months, or a combination thereof.

(c) Other violations of article. For all violations of this article that are not subject to paragraph (b) above, the fine shall be one hundred dollars (\$100.00), or imprisonment for up to thirty (30) days, or a combination thereof.

(d) Each day a violation of this article is committed or permitted to continue shall constitute a separate offense.

(e) Any person who appears in municipal court and is found guilty of a violation of this chapter may, in the discretion of the court, be punished by a fine of up to two hundred fifty dollars (\$250.00) or imprisonment of up to three (3) months, or a combination thereof; or, in the alternative, may be subject to any lawful order including without limitation, community service or remedial action, including but not limited to picking up litter.

(f) A schedule of fines for violations of this article shall be published in the municipal court magistrate's fine schedule, which appears at section 1-32 of the City Code.

(Ord. No. 24-019, Art. II, § 4, 2-2-88; Ord. No. 25-054-2006, 11-28-06; Ord. No. 25-018-2014 , 6-25-14; Ord. No. 25-050-2015 , § 1, 5-12-15)

**Section 15. - Right to appeal.**

A person found liable by the City of Mobile Municipal Court for a violation of this article may appeal within 14 days to Mobile County Circuit Court for trial de novo.

(Ord. No. \_\_\_\_\_)

**Section 16. - Remedies not exclusive.**

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

(Ord. No. \_\_\_\_\_)

## **Chapter 52, Article V: Authority to Foreclose Code Enforcement Liens**

### **Section 1. Purpose and Effective Date**

- a) The lien foreclosure provisions authorized by Code of Alabama, Sec. 11-40-60-69 (1975) shall apply to the collection of any municipal code liens arising from code enforcement actions as to real property, other than owner occupied property, in the municipality.
- b) The effective date for application of these procedures is thirty days beyond the date of enactment of this ordinance by the governing body.
- c) The lien foreclosure provisions adopted herein shall not apply to owner occupied property.
- d) Proceedings in accordance with Section 11-40-60, et. seq., of the Code of Alabama (1975) are designed solely to enforce the municipal code lien for real property subject to the municipal code lien and shall not constitute an action for personal liability for the municipal code liens against the owner or owners of the real property.
- e) The right to pursue a lien foreclosure arising from enforcement of any provisions of Chapter X, Articles I-IV, is available solely to the City and shall not extend to any nongovernmental transferee of municipal code liens.

**Section 2. Specific Applicability.** The City is hereby authorized to initiate judicial en rem foreclosure proceedings as provided by “Class 2 Municipalities – Building Regulations”, Section 11-40-60-69, Code of Alabama (1975). Real property within the municipal limits subject to the

judicial in rem foreclosure procedures as authorized by Section 11-40-60-69, Code of Alabama, includes the following:

- a) real property the subject of code enforcement as provided for in Article I of this Chapter, where the amount of fines, violations, and costs exceed \$1800 within a 18 month time period and have remain unpaid for six months following the date upon which the municipal code lien was recorded in the office of the probate judge;
- b) real property the subject of nuisance abatement as provided for in Article II of this Chapter, where the costs associated with the abatement have been fixed by city council resolution and have remain unpaid for six months following the date upon which the municipal code lien was recorded in the office of the probate judge,
- c) real property the subject of weed abatement as provided for in Article III of this Chapter where the abatement amount exceeds \$1800 dollars within a 18 month time period, the costs associated with the abatement have been fixed by city council resolution and have remain unpaid for six months following the date upon which the municipal code lien was recorded in the office of the probate judge;
- d) real property the subject of general nuisance abatement and enforcement proceedings as provided for Article IV of this Chapter, where the amount of fines, violations, and costs exceed \$1800 within a 18 month time period and have remain unpaid for six months following the date upon which the municipal code lien was recorded in the office of the probate judge;
- e) any real property the subject of code enforcement, nuisance abatement, general nuisance abatement or weed abatement proceedings in accordance with this Chapter,

located within a “redevelopment project area”, and where the municipal code lien has remain unpaid for six months following the date upon which the municipal code lien was recorded in the office of the probate judge;

- f) any real property the subject of code enforcement, nuisance abatement, general nuisance abatement or weed abatement proceedings in accordance with this Chapter and where the real property is also tax delinquent; and,
- g) any real property the subject of code enforcement, nuisance abatement, general nuisance abatement or weed abatement proceedings in accordance with this Chapter where a lien foreclosure action may serve a public purpose, or allow the property the subject of the lien foreclosure action to be used for a public purpose upon completion of the foreclosure action, irrespective of the amount of the municipal lien payoff.
- h) The Department responsible for enforcement of this Chapter shall adopt policies and procedures which further detail and determine which properties are subject to which enforcement actions, the sequence of the various efforts by department staff members to achieve compliance with Articles I - IV and remedies to be sought when resolution has not been achieved.

**Section 2. Definitions.** As used in this Chapter, the following words and phrases

shall have the following meanings:

(1) ADJOINING PROPERTY OWNERS means any owners adjacent to property the subject of these procedures that shares a boundary line and/or owners who are members or participants in the neighborhood association, community action group, or community development corporation or similarly-situated advisory group wherein the property is located.

(2) INTERESTED PARTY. Includes the following parties:

- a. The person who last appears as owner of the real property in the county office of the judge of probate's property records.
- b. The current mortgagee of record of the property or assignee of record of the mortgagee.
- c. The current holder of a beneficial interest in a deed of trust recorded against the real property.
- d. A tax certificate holder.
- e. A tax sale purchaser that holds a deed of purchase in accordance with Section 40-10-29 of the Code of Alabama 1975.
- f. Any party having an interest in the real property, or in any part thereof, legal or equitable, in severalty or as tenant in common, whose identity and addresses are reasonably ascertainable from the records of the Class 2 municipality or records maintained in the county office of the judge of probate or as revealed by a full title search, consisting of 50 years or more.
- g. An Interested Party shall not include the holder of the benefit of an easement which burdens the real property, the holder of the benefit or burden of a real covenant which burdens the real property, or the holder of the benefit of a utility easement which burdens the real property.

(3) MINIMUM BID PRICE. The price that equals the Redemption Amount.

(4) MUNICIPAL CODE LIEN. Any lien that has been levied against real property by the City that is the result of the non-payment of any fine, penalty, abatement cost, or enforcement cost

incurred by the City related to the enforcement of the provisions Articles I-IV of this Chapter. Such lien shall include only those liens which arise out of a failure to comply with any of the provisions of Articles I-IV of this Chapter. A municipal code lien shall not include any lien that has previously been certified to the tax collector of the county for inclusion on the property tax bill associated with the real property, such as those liens certified under Section 11-67-8 of the Code of Alabama 1975.

(5) MUNICIPAL CODE LIEN PAYOFF. The principal amount of a municipal code lien, interest accrued at the rate of seven and one-half percent per annum from the date the municipal code lien was filed in the office of the judge of the probate, any fees or costs incurred in the collection of such a lien under this act including, without limitations, the cost of title examinations and publication of notices, and any other penalties allowable under either state law or under an ordinance or resolution enacted by the City.

(5) OWNER OCCUPIED. Real property that is lawfully occupied as a principal residence that is any of the following:

- a. A homestead as described in Section 40-9-19 of the Code of Alabama 1975.
- b. Exempt from ad valorem taxation under Sections 40-9-19.1, 40-9-20, and 40-9-21 of the Code of Alabama 1975.
- c. Eligible for the designations listed in paragraphs a. or b., but which has not yet been granted such designation and which is lawfully occupied by the family of a deceased individual.

(6) REDEMPTION AMOUNT. The sum of (1) the full amount of the municipal code lien payoff for each municipal code lien on which the City is seeking to foreclose under this Chapter, and as

authorized by Ala. Code 11-40-60, and (2) any tax payoff that may be applicable to the property on which the City is seeking to foreclose under this Chapter.

(7) TAXES. Those taxes assessed against real property by either the State of Alabama, Mobile County, or the City that are delinquent, as defined in Section 40-11-4 or Section 11-51-2 of the Code of Alabama 1975, as of the date a proceeding under Section 11-40-60 of the Code of Alabama is commenced or at any time before final resolution of the same, and shall also include any taxes assessed against real property that are unpaid from any previous year and any amounts required for redemption under Section 40-10-82, 40-10-120, or Section 11-51-23 of the Code of Alabama 1975. As provided in Section 11-51-6 of the Code of Alabama 1975, a lien for taxes shall be superior to all other liens, including municipal code liens.

### **Section 3. Owner Occupied Properties**

Owner-occupied properties are excluded from the application of the judicial in rem foreclosure procedures as authorized by this Section. When Owner-occupied properties are the subject of code enforcement actions as provided for in Articles I-IV, the City shall provide all notices as required by the applicable code section. In addition, the Department shall refer owners to a list of support services, to be kept current and on file within the Department. These services include, but are not limited to, opportunities for grant-funded assistance for repairs to the property, legal services related to title issues or estate planning, and coordination with various social service or volunteer agencies who may be of assistance.

**Section 4. Priority of Liens.** Notwithstanding any law to the contrary, any fees, penalties and abatement costs imposed against property other than owner occupied real property for

violations of any provisions of Art. I-IV of this Chapter may be enforced in rem as a lien in accordance with Section 40-10-60, Code of Alabama (1975).

Every municipal code lien, as defined in this Chapter, shall be superior to all other liens, except those liens for taxes described or referenced in Section 11-51-6, Code of Alabama (1975).

**Section 5. Timeline; Filing Petition for Foreclosure;**

a) Six months following the date upon which a municipal code lien has been recorded against a property with the office of the Probate Judge of Mobile County, the City may commence a judicial in rem foreclosure and sale of the property in accordance with Code of Alabama, Section 11-40-60, et. seq. (1975);

b) Sixty days prior to the filing of the petition, the City shall notify all other taxing agencies within the jurisdiction of the municipality, and the State of Alabama of the City's intention to file a petition for judicial in rem foreclosure of the real property on which a municipal code liens exists. Upon notification, the Revenue Commissioner shall provide the tax payoff amount to the City.

c) A petition for judicial in rem foreclosure may include any other municipal code lien that has been filed prior to the date the petition is filed. After foreclosure proceedings have commenced, the proceedings may be amended to include any subsequently arising municipal code liens and, if applicable, any and all taxes as defined in this Section.

**Section 6. Redemption of property.**

At any point prior to the judicial en rem foreclosure and sale, any interested party may redeem the real property from the sale by payment of the redemption amount. Payment shall be made to the City. Following receipt of the payment, the City shall cease all proceedings to foreclose

the municipal lien.

**Section 7. Municipality as Bidder.**

The City, in the absence of any bid higher than the minimum bid price at the sale as ordered by the court, shall be the default purchaser of the property at the sale. The City shall tender the amount due to the court as required by Section 11-40-68 of the Code of Alabama (1975).

**Section 8. Input from Adjoining Property Owners.**

Along with all notice required by law to the interested parties, prior to filing a judicial en rem foreclosure action, the City shall notify all adjoining property owners and / or the neighborhood association, community action group, or community development corporation or similarly-situated advisory group wherein the property is located of its intent to file the action. Prior to the sale, the City shall notify the same. If the property defaults to the City at the conclusion of the sale, the City shall seek input from the same as to the final disposition of the property. Any future disposition will be made in accordance with the policies and procedures maintained by the Department or in accordance with a redevelopment project plan as required by Article VI of this Chapter.

**Chapter 52 – Article VI: REDEVELOPMENT PROJECT AREAS**

**Section 1. Findings and Purpose.**

- (a) The City Council of Mobile has found and declared:
- (1) That there exist in the city blighted areas, as defined herein, or areas in the process of becoming blighted;
  - (2) That such areas impair economic values and tax revenues, cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the residents of the city, and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities;

- (3) That restoration, clearance, re-planning, and/or rebuilding of these areas and the prevention or the reduction of blight and its causes are public uses and purposes for which public money may be spent and private property acquired and are considered governmental functions of state and city concern;
  - (4) That redevelopment activities will stimulate residential construction which is closely correlated with general economic activity and that the undertakings authorized by this chapter will aid the production of better housing and more desirable neighborhood and community development at lower costs and will make possible a more stable and larger volume of residential construction, which will assist materially in achieving and maintaining full employment; and
  - (5) That it is in the public interest that advance preparation for such projects and activities be made now.
- (b) The necessity in the public interest for this chapter is hereby declared as a matter of legislative determination.

**Section 2. Powers; acquisition and redevelopment of blighted property; Limitations on eminent domain; definition of "blighted property."**

- (a) The city may carry out any work or undertaking, hereafter called a "redevelopment project":
- (1) To acquire blighted property as defined in subsection (c).
  - (2) To acquire other real property for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight.
  - (3) To clear any areas acquired and install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses that are in accordance with an approved redevelopment project.
  - (4) To sell or lease land so acquired for uses in accordance with approved redevelopment projects.
  - (5) To accomplish a combination of the foregoing to carry out a redevelopment project.
  - (6) To undertake redevelopment and urban renewal projects to clean up and prevent blighted areas or slums; and, when a public purpose will be served by the conveying of property for nominal consideration, the city council may make such grants.
- (b) Notwithstanding any other provisions of this chapter, a redevelopment project may include property that is not blighted, but the power of eminent domain shall not be exercised to acquire property that is not blighted without the consent of the owner.
- (c) For the purposes of this section, the term "blighted property" means property that contains any of the following factors:

- (1) The presence of structures, buildings, or improvements, which, because of dilapidation, deterioration, or unsanitary or unsafe conditions, vacancy or abandonment, neglect or lack of maintenance, inadequate provision for ventilation, light, air, sanitation, vermin infestation, or lack of necessary facilities and equipment, are unfit for human habitation or occupancy.
- (2) The existence of high density of population and overcrowding or the existence of structures which are fire hazards or are otherwise dangerous to the safety of persons or property or any combination of the factors.
- (3) The presence of a substantial number of properties having defective or unusual conditions of title which make the free transfer or alienation of the properties unlikely or impossible.
- (4) The presence of structures from which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
- (5) The presence of excessive vacant land on which structures were previously located which, by reason of neglect or lack of maintenance, has become overgrown with noxious weeds, is a place for accumulation of trash and debris, or a haven for mosquitoes, rodents, or other vermin where the owner refuses to remedy the problem after notice by the appropriate governing body.
- (6) The presence of property which, because of physical condition, use, or occupancy, constitutes a public nuisance or attractive nuisance where the owner refuses to remedy the problem after notice by the appropriate governing body.
- (7) The presence of property with code violations affecting health or safety that has not been substantially rehabilitated within the time periods required by the applicable codes.
- (8) The presence of property that has tax delinquencies exceeding the value of the property.
- (9) The presence of property which, by reason of environmental contamination, poses a threat to public health or safety in its present condition.

**Section 3. Powers under other housing laws; contracts; issuance of bonds and other obligations; eminent domain.**

In undertaking such redevelopment projects, the city may exercise all the rights, powers, privileges, and immunities that it has under Code of Ala., Title 24, Chapter 1 and any other provision of law relating to slum clearance and housing projects for persons of low income, including, without limiting the generality of the foregoing, the power to make and execute contracts, to issue bonds and other obligations and give security therefor, to acquire real property by donation, purchase, or eminent domain and to do any and all things necessary to carry out projects in the same manner as though all the provisions of law applicable to slum clearance and housing projects were applicable to redevelopment projects undertaken under this chapter; provided, that nothing contained in Code of Ala., § 24-1-6 shall

be construed as limiting the power of the governing body, in the event of a default by a purchaser or lessee of land in a redevelopment project area, to acquire property and operate it free from the restrictions contained in said section.

**Section 4. Approval of redevelopment project area plan; assistance for redevelopment**

**projects.** The city shall not initiate any redevelopment project under this chapter until the City Planning Commission and, thereafter, the City Council have approved a plan, herein called a "redevelopment project area plan," which provides an outline for the development or redevelopment of said redevelopment project area and is sufficiently complete:

- (a) To indicate its relationship to definite local objectives as to appropriate land uses and improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements;
- (b) To indicate proposed land uses and building requirements in the area; and
- (c) To indicate the method for the temporary relocation of persons living in such areas and also the method for providing, unless already available, decent, safe, and sanitary dwellings substantially equal in number to the number of substandard dwellings to be cleared from said area, at rents within the financial reach of the income groups displaced from such substandard dwellings.

The city may also cooperate with and assist the city housing authority with respect to projects that the city housing authority proposes pursuant to Code of Ala., Title 24, Chapter 1, Article 2 or any other provision of law for the purpose of addressing slum clearance and housing projects in the same manner as though the provisions of such laws were applicable to redevelopment projects undertaken under this chapter.

**Section 5. Advisory board.** For the purpose of coordinating its activities and undertakings under this chapter with the needs and undertakings of other local organizations and groups, the city may establish an advisory board made up of sufficient members to represent so far as practicable: community development corporations or similarly-situated non-profits; neighborhood groups and / or neighborhood-based advocates; the general public and consumers of housing; general business interests; real estate, building and home financing interests; labor; any official planning body in the locality; and church and welfare groups. The members of the advisory board shall be appointed by the mayor who shall serve as the chairman of the advisory board.

**Section 6. Project lands; sale or lease.** (a) The city may make land in a redevelopment project area available for use by private enterprise or public agencies in accordance with its approved redevelopment project area plan. Such land may be made available at its use value, which represents the value, whether expressed in terms of rental or capital price, at which the city

determines such land should be made available in order that it may be developed or redeveloped for the purposes specified in such plan.

- (b) To assure that land acquired in a redevelopment project is used in accordance with the redevelopment project area plan, the governing body upon the sale or lease of such land, shall obligate purchasers or lessees:
  - (1) To use the land for the purpose designated in the redevelopment project area plan;
  - (2) To begin the building of their improvements within a period of time which the authority fixes as reasonable; and
  - (3) To comply with such other conditions as are necessary to carry out the purposes of this chapter.
- (c) Any such obligations by the purchaser shall be covenants and conditions running with the land where the city so stipulates.

**Section 7. Acquisition through donation, foreclosure, or purchase and disposition for "nominal consideration."**

The city may acquire and redevelop properties within a redevelopment project area for residential, commercial, institutional, recreational and/or industrial uses through voluntary donation, purchase, mortgage foreclosure, and/or eminent domain; however, use of eminent domain authority is limited according to section 2 and 3 of this Article.

- (a) The city may accept the donation of properties or may purchase properties and the improvements thereon from private owners or from institutional owners, including the State of Alabama, for reuse or redevelopment after approval by the governing body.
- (b) Disposition for "nominal consideration" results from the city's having mitigated all blighting conditions on individual properties, rendering them suitable for redevelopment or re-use, including, if necessary, mitigation of environmental contamination. The amount of the nominal consideration to be received in the disposition of the property and improvements thereon must be approved by the governing body in advance of execution.

**Section 8. Tax status of project lands sold or leased to private individuals or corporations for redevelopment.** Any property which the city leases to private individuals or corporations for development under a redevelopment project area plan shall have the same tax status as if such leased property were owned by such private individuals or corporations.

**Section 9. Federal financial aid.** The city may borrow money or accept contributions from the federal government to assist in its undertaking of redevelopment projects and may do any and

all things necessary or desirable to secure such financial aid, including obligating itself in any contract with the federal government for annual contributions to convey to the federal government the project to which said contract relates, upon the occurrence of a substantial default thereunder, in the same manner as it may do to secure such aid in connection with slum clearance and housing projects under the provisions of this title.

**Section 10. Investment by the city in bonds issued by housing authorities.** Bonds or other obligations issued by the city in connection with a redevelopment project pursuant to this chapter, shall be security for public deposits and legal investments to the same extent and for the same persons, institutions, associations, corporations, and other bodies and officers as bonds or other obligations issued pursuant to this title in connection with the development of slum clearance and housing projects.

**Section 11. Redevelopment Project Areas.** For the purposes of this chapter and as identified on the official Census Maps, the following tracts and block groups are hereby determined to constitute the established redevelopment project area:

Tract	Block Group	Location Description
4	1	The Campground / MLK Heritage Neighborhood
4	2	Fisher / Owens
5		Lafayette Heights / MLK Heritage Neighborhood
7	1 and 2	Toulminville
26		Crichton, north of Spring Hill Ave
27		Crichton, south of Spring Hill Ave
39	1 and 2	Trinity Gardens
13	2	Oakdale
14		Oakdale and Maysville
15	1 and 2	Maysville and RV Taylor

23	1	Riviera
22		Navco
19	2	McVoy / Gill Road
64	2	Mobile Terrace