

ORDINANCE NO. 17- 411

AN ORDINANCE TO ADOPT LOCAL PROPERTY MAINTENANCE CODE PROVISIONS FOR THE CITY IN ADDITION TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE; TO PROVIDE DEFINITIONS; TO PROVIDE FOR ENFORCEMENT AND PENALTIES; AND FOR OTHER PURPOSES.

WHEREAS, the City has adopted the International Property Maintenance Code, but such International Code does not specifically address every problematic property condition found in Clarkston; and

WHEREAS, such problematic conditions, if left unregulated, may become a threat to public safety and the general welfare, as well as having a negative impact on property values; and

WHEREAS, the Mayor and City Council desire to prevent these negative impacts on the City by adopting reasonable local property maintenance regulations in addition to the International Property Maintenance Code.

NOW, THEREFORE, BE IT ORDAINED BY the Clarkston City Council as follows:

SECTION 1. Existing Article II of Chapter 5 of the City Code, (being Code §§ 5-20 and 5-21) is hereby designated as Division 1 of Article II of Chapter 5 of the City Code, to be entitled: "DIVISION 1 – International Property Maintenance Code."

SECTION 2. The attached document consisting of 8 pages is hereby adopted as Division 2 of Article II of Chapter 5, to be entitled "DIVISION 2 – City of Clarkston Local Property Maintenance Code."

SECTION 3. It is the intent of the City Council that the Clarkston Local Property Maintenance Code control if there is any discrepancy between such provisions and the International Property Maintenance Code.

SECTION 4. The individual provisions, sections, subsections, paragraphs, subdivisions and clauses of the Clarkston Local Property Maintenance Code are intended to be severable. Should any portion of this Ordinance be judged invalid by a Court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of the Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon its adoption by the City Council.

ADOPTED THIS 6th DAY OF July, 2017.

ATTEST:

CITY COUNCIL OF
CITY OF CLARKSTON, GEORGIA


Tracy Ashby, City Clerk
(SEAL)


Mayor Ted Terry

Approved as to form

 6-30-17
Stephen G. Quinn, City Attorney

CITY OF CLARKSTON LOCAL PROPERTY MAINTENANCE CODE

Sec. 5-25. - Purpose.

(a)The purpose and intent of this division is:

- (1)To establish minimum requirements and standards for premises and buildings in order to promote and protect the public health, safety, convenience, order and general welfare of the citizens of the city;
- (2)To enhance and promote the maintenance of real property and by so doing, improve the livability, appearance and economic conditions of the community;
- (3)To ensure that real properties do not reach such a state of deterioration or disrepair as to cause the depreciation of the value of surrounding property or be materially detrimental to nearby properties and improvements;
- (4)This division is not to be used as a vindictive or malicious tool by one person against another.

(b)The Local Property Maintenance Code provisions of this division are intended to be enforced in addition to the International Property Maintenance Code adopted as Division 1 of this Article. To the extent that the two divisions conflict, the provisions of this division 2 shall control.

Sec. 5-26. - Scope.

This division shall apply to every building and premises within the city, including all existing structures and every structure that may be erected in the future.

Sec. 5-27. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this division:

Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or material of any kind.

Carport is defined as a structure open on one (1) or more sides primarily designed for the garaging and temporary storage of one (1) or more automobiles which is incident to the use of a single or multiple family dwelling. A carport may be attached to the primary structure or detached. Any garage without a door shall be considered a carport for the purpose of this article.

Director. The director of public works, the chief of police, or anyone designated to carry out enforcement of this article by either of them.

Dwelling. Any structure which is wholly or partly used or intended to be used for living or sleeping by human occupants, whether or not such structure is occupied or vacant.

Garbage. Putrescible animal and vegetable wastes resulting from the preparation, cooking and serving of food and the storage of produce, tin cans, glass containers and newspapers.

Maintenance. The act of keeping property, buildings or vegetation in a proper condition so as to prevent their decline, failure or uncontrolled growth.

Occupant. Any individual living or sleeping in a building; or having possession of a space within a building.

Operator. Any person who has charge, care or control of a building or premises which is let or offered for occupancy.

Owner. Any person, agent, firm or corporation having a legal or equitable interest in a premises; or recorded in the official records of the state or county as holding title to the premises; or otherwise having control of the premises, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Premises. A lot, plot or parcel of land including any structures thereon and the open space portions of a lot, plot or parcel.

Sewage. Liquids, solid waste or waste matter carried off by sewage disposal systems or drains.

Temporary trash receptacle. All dumpsters, dump trucks or other types of receptacle, used for holding trash at a location for a set period of time and designed to be removed by motorized vehicles with refuse left in place.

Trash. Combustible and noncombustible waste material, excluding garbage, including paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, cans, metals, bricks, lumber, concrete, mineral matter, glass crockery, and including the residue from the burning of wood, coal, coke or other combustible material.

Workmanlike condition of maintenance and repair. In order to be competed in a workmanlike condition, maintenance and repair shall be made in a reasonably skillful manner and in accordance with the requirements of all applicable manufacturer's specifications, ordinances and laws.

Weeds. All rank vegetative growth including but not limited to kudzu, poison ivy, jimsonweed, burdock, ragweed, thistle, cocklebur, dandelion, plants of obnoxious odors, or other similar unsightly vegetative growths; however, this term shall not include cultivated flowers, fruits and vegetables, and gardens.

Yard trimmings. All leaves, brush, grass, clippings, shrub and tree prunings, discarded Christmas trees, and vegetative matter resulting from landscaping or maintenance activities.

Terms not defined herein shall have the same meaning as provided in article IV of the city's zoning ordinance. If not defined herein or in the zoning ordinance, words shall have their common dictionary definition. Whenever the words "premises," or "building," are stated in this article, they shall be construed as though they were followed by the words "or any part thereof."

Secs. 5-28—5-29. - Reserved.

Sec. 5-30. - Fences and walls.

Fences and walls shall be maintained in a structurally sound condition and in good repair. Fences and walls shall be free from loose or rotting materials to the extent that they have become unsafe

or an eyesore and shall have braces and supports attached to or fastened in accordance with common building practices.

Sec. 5-31. - Grading and drainage.

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water on the premises and within any building located thereon, with the exception of approved retention areas and reservoirs.

Sec. 5-32. - Grass, weeds and uncultivated vegetation.

Premises shall be maintained free from grass, weeds or uncultivated vegetation in excess of twelve (12) inches in height. It shall be the independent responsibility of the owner, occupant, and operator of the premises to cut and remove grass, weeds or uncultivated vegetation as often as may be necessary, to maintain the premises in compliance with this article and to use every precaution to prevent the same growing on such premises as to become a nuisance. Premises shall be maintained to side and rear property lines and to the curb or edge of pavement.

Sec. 5-33. - Open and outdoor storage.

The open or outdoor storage of any used or damaged lumber, building materials, junk, trash, garbage, debris, scrap metal, concrete, asphalt, cans, bottles, glass, tires, salvage materials, boxes, containers, bins, and abandoned, discarded, inoperative, or unusable furniture, stove, refrigerator, freezer, sink, toilet, cabinet or other household appliances or fixtures, yard waste or equipment (excluding residential lawn maintenance equipment), shall not be permitted for more than twenty-four (24) hours. Refer to the city health and sanitation ordinance for additional requirements on the storage of garbage, rubbish, refuse and other litter being stored on private property. This section shall not apply to:

- (1) Premises where outdoor storage is authorized by the zoning ordinance;
- (2) Cut wood which is neatly stacked in lengths not to exceed three (3) feet and is for the personal use of the owner or occupant.
- (3) Building materials on hand for a construction project for which an active building permit has been issued by the city.

Sec. 5-34. - Enclosures for trash receptacles and dumpsters.

(a) All new construction, development or redevelopment in any zone of the city, except single family residential zones, shall provide an enclosure around all dumpsters and trash receptacles. Said enclosure shall be of sufficient height to hide the dumpster or receptacle from view from all public streets and rights-of-way. The enclosure shall provide adequate clearances for trash collection vehicles to remove, replace or empty the dumpster or trash receptacle. Gates shall be provided for access which may be closed and secured.

(b) All business locations within the city shall maintain its dumpsters and/or trash receptacles within such an enclosure at all times except when being emptied. Enclosures with gates shall be closed and secured. The area around the dumpster or trash receptacle, including the area within the enclosure, shall be kept and maintained free of trash and debris. Enclosures shall be maintained in good condition and repaired and replaced as necessary.

Sec. 5-35. - Location of dumpsters and trash receptacles.

All dumpsters and trash receptacles shall be maintained a minimum of thirteen (13) feet from any curb or right-of-way of any public street.

Sec. 5-36. - Regulation and permitting of temporary trash receptacles.

(a) No person, corporation, or other entity shall place a temporary trash receptacle within the city without having first obtained a permit for such temporary trash receptacle from the city clerk and having paid a permitting fee of one hundred twenty-five (\$125.00) for each such temporary trash receptacle. The permit application shall contain the name and telephone number of the responsible party, the location of the temporary trash receptacle, and the name, address and telephone number of the owner of the temporary trash receptacle.

(b) Permits granted under this section shall be valid for a period of ninety (90) days. Upon written application and upon payment of a fee of fifty dollars (\$50.00), the city clerk may extend the permit for a period not to exceed thirty (30) days. Two (2) additional extensions may be granted upon written application and payment of an additional fee of fifty dollars (\$50.00) for each extension. If the use of the temporary trash receptacle is on a construction site, additional extensions may be granted but not to exceed the time of actual construction on the property.

(c) No temporary trash receptacle shall be located in such a way as to interfere with or hinder the approach of any emergency vehicle or emergency responder to any building, structure, fire lane, fire hydrant, fire protective feature or emergency connection. If the temporary trash receptacle is placed on any public street, the location shall be approved prior to placement by the director to insure that there is no interference with the free flow of traffic.

(d) The responsible party shall not allow any such temporary trash receptacle to overflow or to allow accumulation of trash, rubbish or debris around the receptacle.

(e) In addition to the enforcement provisions of divisions 3 and 4 of this article, violations of this section shall be punishable as provided in section 1-7 of this Code of Ordinances. The city also reserves the right to remove, at the responsible person's expense, any temporary trash receptacle that does not have a valid permit or which has an expired permit.

Sec. 5-37. - Sanitation.

All premises shall be maintained in a clean and sanitary condition free from any accumulation of trash, rubbish or garbage. The storage and disposal of refuse shall be in accordance with the City Code, health and sanitation ordinance, as amended.

Sec. 5-38. - Rodent harborage.

All buildings and premises 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 extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Sec. 5-39. - Sidewalks and driveways.

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

Sec. 5-40. - Reserved.

Sec. 5-41. - Stagnant water prohibited.

Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. No owner, operator or occupant shall permit any accumulation of stagnant water upon any premises.

Sec. 5-42. - Pools, tubs, and spas—Safety fence required.

(a) All outdoor swimming pools, private swimming pools, hot tubs and spas, containing water more than twenty-four (24) inches (two (2) feet) in depth shall be completely surrounded by a fence around the exterior of the pool, the top of which shall be at least sixty (60) inches above grade of the pool measured on the side of the fence which faces away from the swimming pool. Gates to the fence shall meet the following standards:

- (1) All gates shall be self-closing and have a self-latching device. 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 six (6) inches or more from the gatepost.
- (2) Pedestrian access gates shall open outward away from the pool.
- (3) Where the release mechanism of the self-latching device is located less than fifty-four (54) inches from the bottom of the gate, the release mechanism and openings shall comply with the following:
 - a. The release mechanism shall be located on the pool side at least three (3) inches below the top of the gate, and
 - b. The gate and fence or barrier shall have no opening greater than one-half (0.5) inch within eighteen (18) inches of the release mechanism.

(b) No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Sec. 5-43. - Retention ponds to be fenced.

(a) Every retention pond designed to accumulate stormwater shall be completely surrounded by a fence or barrier around the exterior of the pond that shall be at least sixty (60) inches in height at all points. Any gate to the required fence or barrier shall meet the following standards:

- (1) All gates shall be self-closing and have a self-latching device. 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 six (6) inches or more from the gatepost.
- (2) Pedestrian access gates shall open outward away from the pool.
- (3) Where the release mechanism of the self-latching device is located less than fifty-four (54) inches from the bottom of the gate, the release mechanism and openings shall comply with the following:
 - a. The release mechanism shall be located on the pool side at least three (3) inches below the top of the gate; and
 - b. The gate and fence or barrier shall have no opening greater than one-half (0.5) inch within eighteen (18) inches of the release mechanism.

(b) No existing retention pond shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Sec. 5-44. - Abandoned wells.

All abandoned wells within the city must be filled, capped, or enclosed so as to prevent any hazard to the public health or safety. Any owner, operator, or occupant who fails to fill, cap or enclose an abandoned well within ten (10) days after receiving written notice from the city to fill, cap or enclose such abandoned well shall be subject to the penalties provided for in this article. For purposes of this section, every underground accumulation of water not actively being used for drinking purposes shall be considered an "abandoned well."

Sec. 5-45. - Trees.

(a) *Hazardous trees.* There shall be no dead, dying, damaged, diseased or hazardous trees, shrubs, ground cover or weeds likely to harbor vermin or insects, restrict or impede access to or public use of adjacent sidewalks and streets, obstruct traffic-control signs and devices and fire hydrants, or pose a reasonably likely risk of physical injury to the public.

(b) *Tree stumps.* Tree stumps visible from a public street greater than twelve (12) inches in height above ground level shall not be permitted or maintained on any premises for more than thirty (30) days after the tree has been cut.

(c) *Tree debris.* Felled trees, slash, removed tree limbs, or other portions of any tree shall not be permitted or maintained on the ground on any premises for more than thirty (30) days. Cut firewood that is neatly stacked in lengths not to exceed three (3) feet shall not be deemed a violation of this section.

Sec. 5-46. - Exterior surface treatment.

All exterior building surfaces, including but not limited to doors, door and window frames, cornices, porches, and trim shall be maintained in good repair. 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. All siding and masonry joints shall be maintained weather resistant and watertight. The owner, occupant or operator of any building shall cover with paint, wash off or remove by other means all graffiti, vulgar language, gang related symbols or other painting on the outside of a building that is not related to a sign permitted by the city.

Sec. 5-47. - 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 or on a mailbox visible from the right-of-way so that emergency services may readily identify the address of the building.

Sec. 5-48. - Windows.

Windows of occupied buildings shall be fully supplied and maintained with glass windowpanes or with a transparent substitute approved by the director, which are without open cracks, broken glass or holes. Screens, if provided, shall be securely fastened to the window. For unoccupied buildings, the owner or operator may elect to securely board up one (1) or more windows if the glass becomes broken or damaged.

Sec. 5-49. - Carports to be maintained in an orderly fashion.

Under any carport, there shall not be excessive accumulations of trash, debris or storage. Storage within a carport shall not prevent the parking of a vehicle within the carport. Excessive and disorderly storage shall be removed or put in good order upon notice from the city.

Secs. 5-50—5-59. - Reserved.

Sec. 5-60. - Enforcement.

This division shall be enforced by the police chief, the director of public works or either of their duly authorized representative or by any other agency or individual designated by the city council to enforce this division.

Sec. 5-61. - Transfer of ownership.

It shall be unlawful for the owner of any building who has received a compliance order or upon whom a citation 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 shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or citation issued by the city and shall furnish to the director a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or citation and fully accepting the responsibility without condition for the corrections or repairs required by such compliance order or any future compliance order that may be entered as a result of a pending citation.

Sec. 5-62. - Owner's right of entry.

Every occupant of a building shall give the owner thereof, or the owner's agents or employees, access to any part of such building, or its premises, at all reasonable times, for the purpose of maintaining, improving or making such repairs or alterations as are necessary to effect compliance with the provisions of this division or with any lawful rule or regulation adopted pursuant to the provisions of this division.

Sec. 5-63. - City's right of entry.

No person shall refuse entry or access to any authorized representative or agent of the city who has reason to believe that a health or safety threat exists and who requests entry for the purposes of inspection, and who presents a valid warrant signed by an authorized county magistrate. No person shall obstruct, hamper or interfere with any such representative while in the process of carrying out his/her official duties on public property or the common areas of any apartment or condominium development.

Sec. 5-64. - Subpoena power.

The director shall have the power to issue subpoenas requiring any occupant, operator, or owner, of any premises under inspection, investigation, or who have been accused of a violation this division to appear in municipal court. The director shall also have the power to issue subpoenas to occupants, operators, and/or owners to produce written records related to the premises under inspection or investigation.

Sec. 5-65. - Unlawful acts.

It shall be unlawful for any owner, operator or occupant to be in conflict with, or in violation of, this division.

Sec. 5-66. - Notice of violation.

Enforcement shall begin with a written notice of violation provided to the owner, occupant, or operator. The notice shall contain a deadline of no less than two (2) days and not more than thirty (30) days for compliance, which may be extended by the director. If the owner, occupant or operator has received a notice of violation of any provision of this chapter within the preceding twenty-four-month period no additional notice of violation under this section shall be required before issuing a citation for any subsequent alleged violation of this chapter.

Sec. 5-67. - City's right to remedy violation.

If any owner, operator, or occupant fails or refuses to comply with this division within the specified deadline of the director, the city, through its agents and employees, may go upon such premises and do or cause to be done the work necessary to obtain compliance with this division. The expense incurred in correcting this condition on such premises and any administrative costs involved shall be paid by the city and charged to the owner of such premises. A bill for such services shall be promptly sent to the owner of the premises on which such services were performed by the city. Should said amount go unpaid for a period of thirty (30) days following the mailing of said bill via certified mail, the city may institute a lawsuit or place a lien on said property to seek recovery of the amounts expended by the city including applicable interest and attorney's fees. This provision is not exclusive of any other rights and remedies available to the city under its charter and laws of the state.

Sec. 5-68. - Noncompliance.

If any owner, operator or occupant fails to bring any premises in to compliance with this division in accordance with a notice of violation, the director shall issue a citation for the violator to appear in municipal court. The citation shall specifically allege that section violated and the nature of such violation. The citation shall be served by either personal service or certified mail.

Secs. 5-69—5-79. - Reserved.

Sec. 5-80. - Penalties.

Any owner, operator, or occupant violating any of the provisions of this division shall be subject to a fine or imprisonment, upon conviction in the municipal court, and each and every day that the premises shall remain in a condition in violation of the terms of this division shall constitute a separate offense. This section shall be in addition to the provisions of the abatement of said nuisance and the charge of the cost of the same against the owner of the premises by the city. A fine imposed under this division shall be no less than two hundred fifty dollars (\$250.00) and shall not exceed one thousand dollars (\$1,000.00) per offense.