

ORDINANCE NO. 2772

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING ORDINANCE NO. 2698, ARTICLE I, SECTION (i) INTERNATIONAL PROPERTY MAINTENANCE CODE, 2015 EDITION, PROVIDING A NEW DEFINITION, REVISING PROVISIONS REGARDING NOTICES, ORDERS AND WEEDS, PROHIBITING RESIDENTIAL OPEN STORAGE; PROVIDING FOR SEVERABILITY, PROVIDING A PENALTY, PROVIDING A SAVINGS CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS THAT

Ordinance No. 2698 of the Code of Ordinance of the City of Terrell, Article I, Section (i), International Property Maintenance Code, 2015 edition, is hereby amended as follows:

ARTICLE I.

The City of Terrell hereby amends Chapter 1, *Administration*, of the International Property Maintenance Code, 2015 edition as follows:

Subsection 101.1, *Title*, is changed to read as follows:

These regulations shall be known as the *Property Maintenance Code of the City of Terrell, Texas*, hereinafter referred to as “this code”.

Subsection 101.3, *Intent*, is changed to read as follows:

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, repaired or, in the alternative, demolished to provide a minimum level of health and safety as required herein. *Repairs, alternations, additions to and change of occupancy in existing buildings shall comply with the building codes as adopted by the City of Terrell.*

Subsection 102.3, *Application of Other Codes*, is changed to read as follows:

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Building Codes as adopted by the City of Terrell. Nothing in this Code shall be construed to cancel, modify or set aside any provision of the City of Terrell Zoning Ordinance.

Subsection 103.4, *Liability*, is deleted in its entirety.

Subsection 103.5, *Fees*, is deleted in its entirety.

Subsection 104.1, *General*, is changed to read as follows:

The Building Official or the City Manager's designee(s) is hereby authorized and directed to enforce the provisions of this code. The Building 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 or limiting the requirements specifically provided for in this code.

Subsection 106.2, *Notice of violation*, is deleted in its entirety.

Subsection 106.3, *Prosecution of violation*, is deleted in its entirety.

Subsection 106.4, *Violation penalties*, is deleted in its entirety.

Subsection 106.5, *Abatement of violation*, is deleted in its entirety.

Subsection 107.1, *Notice to person responsible*, is deleted in its entirety.

Subsection 107.2, *Form*, is deleted in its entirety.

Subsection 107.3, *Method of service*, is deleted in its entirety.

Subsection 107.5, *Penalties*, is deleted in its entirety.

Subsection 108.1.1, *Unsafe Structures*, is changed to read as follows:

An unsafe structure is one that is found to be dangerous to life, limb, health, property, safety or welfare 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.

Notwithstanding anything in this Section to the contrary, the City expressly retains all statutory powers and rights to address unsafe structures.

Subsection 108.7, *Record*, is changed to read as follows:

The Building Official shall cause a report to be made on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

Subsection 110.1, *General*, is changed to read as follows:

The Building Official or the Building Standards Commission may order the owner or owner's authorized agent of any structure, which in his, her or its judgement after review is so

deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's or owner's authorized agent's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the Building Official or the Building Standards Commission may order the owner or the owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year unless approved by the Building Official or the Building Standards Commission.

Notwithstanding anything in this Section to the contrary, the City and the Building Standards Commission expressly retain all statutory powers and rights to pursue demolition.

Subsection 111.1, *Application for Appeal*, is changed to read as follows:

Any person directly affected by a decision of the Building Official or a notice or order issued under this code shall have the right to appeal to the *Building Standards Commission*, provided that a written application for appeal is filed within twenty (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. A person's exercise of an appeal does not preclude or abate criminal enforcement for a violation of this code.

Subsection 111.2, *Membership of board through 111.8, Stays of Enforcement* are deleted in their entirety.

Subsection 112.4, *STOP WORK ORDER – Failure to Comply*, is deleted in its entirety.

ARTICLE II.

The City of Terrell hereby amends Chapter 2, *Definitions*, of the International Property Maintenance Code, 2015 edition as follows:

Subsection 201.3, *Terms defined in order codes*, is changed to read as follows:

Where terms are not defined in this code, they shall have the meanings ascribed to them as stated in the building codes as adopted by the City of Terrell.

Subsection 202, *General Definitions*, the following definitions are changed or added as follows:

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

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The cost shall include the actual cost of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to the 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 and order of demolition made by the Building Official or the Building Standards Commission.

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

NOXIOUS WEED. Any plant designated by a Federal, State or county government as injurious to public health, agriculture, recreation, wildlife or property.

OPEN STORAGE. The outside storage of goods, materials, merchandise, or equipment on a lot or tract including the placement of storage containers such as vaults, shipping containers or other vehicles for storage. Open storage does not include the storage of furniture, cooking equipment, heaters, firewood, fire pits, and other items designed to be stored outside of a residential building, if stored in a manner which does not create a risk to the health or safety of the public or constitute a public nuisance.

ARTICLE III.

The City of Terrell hereby amends Chapter 3, *General Requirements*, of the International Property Maintenance Code, 2015 edition as follows:

Subsection 301.3, *Vacant structures and land*, is changed to read as follows:

All 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, safety or welfare.

Subsection 302.1, *Sanitation*, is changed to read as follows:

All exterior property and premises shall be maintained in a clean, safe and sanitary condition.

Subsection 302.4, *Weeds*, is changed to *Exterior Property Maintenance* and is changed to read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches (12") in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs however this term shall not include cultivated flowers and gardens. Dead trees, shrubs or ground cover must be removed and replaced as required. Landscaping shall be maintained to minimize property damage and

eliminate public safety hazards. Exterior property areas and landscaping shall be maintained to minimize property damage and eliminate public safety hazards. Trees, shrubs, ground cover and all other vegetation shall be maintained to allow a vertical clearance up to seven (7) feet above sidewalk pavement and fourteen (14) feet above street pavement. Trees, shrubs, bushes, boulders or other objects located along paved alleys shall be maintained one (1) foot back from the paved alley surface and so as to allow a vertical clearance of fourteen (14) feet. Turf grasses and groundcover not exceeding twelve (12) inches in height shall be maintained.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice violation or after causing, permitting or allowing the same or similar violation to occur within a three year anniversary of service of a notice of violation, they shall be subject to prosecution in accordance with Article 7, Section 3 of the Terrell City Code of Ordinances for each offense. Upon failure to comply with the notice of violation, any duly authorized employee of the City of Terrell or contractor hired by the City of Terrell shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs incurred for such removal shall be paid by the owner or agent responsible for the property. The charges to be collected by the City under this section shall include, in addition to the costs and expenses of mowing or correcting a condition upon a tract of land, the sum of twenty-five dollars (\$25.00) per lot or tract of land, which sum is hereby found to be the costs to the City of administering this section.

Subsection 302.8, *Motor vehicles*, is changed to read as follows:

Except as provided for in other regulations, no inoperable 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 bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Subsection 302.10, *Open storage prohibited*, is added to read as follows:

It is an offense for an owner, owner's representative, occupant or person with care, custody or control of property to allow open storage, as defined in subsection 202 of this ordinance, in a residential district.

Subsection 304.1.1, *Unsafe conditions*, is changed to read as follows:

The following conditions are deemed unsafe and shall be repaired or replaced to comply with the International Building Code or the International Residential Code.

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 wall 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 normal 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. When substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the Building Official.

Subsection 304.3, *Premises identification*, is changed to read as follows:

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 no less than four inches high and with a typeface no less than one half inch in width.

Subsection 304.7, *Roofs and drainage*, is changed to read as follows:

The roof and flashing shall be sound, tight, and not have defects. 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. Water runoff shall not be discharged in a manner that creates a public nuisance.

Subsection 304.14, *Insect screens*, is changed to read as follows:

Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any area where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25mm), and every screen door used for insect control shall have a self-closing device in good working condition.

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

Subsection 305.1.1, *Unsafe conditions*, is changed to read as follows:

The following conditions are deemed unsafe and shall be repaired or replaced to comply with the International Building Code or the International Residential Code:

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. When substantiated or otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the Building Official.

Subsection 308.1, *Accumulation of rubbish or garbage*, is changed to read as follows:

All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Subsection 308.1.1, *Refrigerators*, is added to read as follows:

Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

Subsection 308.2, *Disposal of rubbish*, is deleted in its entirety.

Subsection 308.2.1, *Rubbish storage facilities*, is deleted in its entirety.

Subsection 308.2.2, *Refrigerator*, is deleted in its entirety.

ARTICLE IV.

The City of Terrell hereby amends Chapter 5, *Plumbing Facilities and Fixture Requirements*, of the International Property Maintenance Code, 2015 edition as follows:

Subsection 505.3, *Supply*, is changed to read as follows:

The water system of all occupied structures shall be installed and maintained to provide an active supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixture to function properly, safety, and free from defects and leaks.

ARTICLE V.

Penalty: Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine not to exceed twenty-five (\$25.00) dollars for the first offensive and any subsequent offenses occurring within ninety (90) days of the first offensive. After that period, any subsequent offenses within a one-year period shall be subject to a fine not to exceed two hundred dollars (\$200.00) for each offense. Every day a violation continues shall constitute a separate offense.

ARTICLE VI.

All provisions of the Code of Ordinances of the City of Terrell, codified or uncoded, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Terrell, codified or uncoded, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

ARTICLE VII.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

ARTICLE VIII.

The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

ARTICLE IX.

This Ordinance will take effect immediately after its passage and the publication of the caption, as the law in such cases provides.

PASSED AND APPROVED this the 16th day of April, 2019.

PASSED AND ADOPTED this the 7th day of May, 2019.

D.J. Ory, Mayor

Attest:

John Rounsavall, City Secretary

Approved as to form:

Mary Gayle Ramsey, City Attorney