



## ORDINANCE NO. 5811

An Ordinance to amend Ordinance No. 5708 of the City of Memphis Code of Ordinances, known as the "Housing Code" or the "2015 International Property Maintenance Code, as amended for Memphis, TN (IPMC)," to update and/or add provisions related to mold, lead, fee schedule, trees, inoperable vehicles, and condemnation. Rename "Chapter 7 Referenced Standards" to "Chapter 8 Referenced Standards." Add definition to "Section 202 General Definitions." Add Chapter 11. Amend Chapter 3 adding sections 304.2.1 and 305.3.1. Delete sections 305.3, 103.5, 302.5, 302.8, 302.8.2, 108.1, 108.3, 108.4 in its entirety and replace with revisions. Amend chapter 1 adding sections 108.3.1, 108.3.2, 108.3.3, 108.3.4. Delete sections 108.6, 108.7, and 110 in its entirety.

**WHEREAS**, The Council of the City of Memphis seeks to maintain a comprehensive set of property maintenance code requirements to assure the safe and effective maintenance of property within the City of Memphis; and

**WHEREAS**, since the complete overhaul of the Housing Code and adoption of the 2015 International Property Maintenance Code, as amended for Memphis, Tennessee ("IPMC"), the Department of Code Enforcement ("the Department") has found certain provisions to be inapplicable and not reflective of current practices; and

**WHEREAS**, mold and lead issues have become an increasing concern in residential and commercial properties; and

**WHEREAS**, properties with continuous violations of the International Property Maintenance Code, as amended for Memphis, Tennessee, and other laws, are a menace to public health, welfare, and safety; and

**WHEREAS**, a schedule for the fees associated with enforcement of the International Property Maintenance Code, as amended for Memphis, Tennessee, should be set and monitored by the Division of Public Works, Department of Code Enforcement.

**NOW, THEREFORE BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE**, that the previous housing code is hereby amended except as may be set out in the attachment hereto, and that the 2015 Edition of the ICC International Property Maintenance code, as locally amended, is hereby amended by reference, a copy of said code being on file in the Office of Council Records of the Memphis City Council.

**BE IT FURTHER ORDAINED**, that should any part of this ordinance or code be found to be unconstitutional or unenforceable by a court of competent jurisdiction that such a determination will have no effect on the other portions of the adopted code and the amendments thereto.

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect in the City of Memphis upon passage by the Memphis City Council.

**Be It Ordained by the Council of the City of Memphis That,**

- 1. "Chapter 7 REFERENCED STANDARDS" shall be renamed "Chapter 8 REFERENCED STANDARDS."**
- 2. The following definitions shall be added to "Section 202 General Definitions"**

**CHRONIC NUISANCE.** Any non-owner occupied dwelling that is determined by the Environmental Court to be a menace to public health, welfare, or safety as identified by the following factors: (1) A pattern of applicable criminal activity at a non-owner occupied dwelling that is materially greater than average for a similarly situated non-owner occupied dwelling provided , however, that the pattern does not include an incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the non-owner occupied dwelling or on the premises; or (2) Repeated failure of the non-owner occupied dwelling to comply with the provisions of the Tennessee Uniform Residential Landlord Tenant Act (T.C.A. § 66-28-101 et seq.) that require the owners of non-owner occupied dwellings to maintain a safe environment and essential services for the occupant; or (3) A pattern of ordinance violations or other neglect of property conditions at a non-owner occupied dwelling that negatively impacts the health and safety of the occupant(s), and that is excessive after a review of all the facts and circumstances; or (4) Any other illegal activity or property conditions at a non-owner occupied dwelling or on the premises, which have been determined by the Environmental Court or another court of competent jurisdiction to be a menace to public health, welfare or safety.

**ENVIRONMENTAL COURT.** The Shelby County Environmental Court for the Thirtieth Judicial District at Memphis, as well as its judges and/or referees.

**NON-OWNER OCCUPIED DWELLING.** A dwelling unit or rooming unit that is not occupied by the owner of record, or if unoccupied, is not, in the code official's sole discretion, being made available for sale through a good faith effort of the owner.

**NUISANCE ACTIVITY.** Any activity that could lead to a non-owner occupied dwelling being declared a chronic nuisance by the Environmental Court.

- 3. The following chapter is hereby added:**

**CHAPTER 11: CHRONIC NUISANCE**

**1101.1 Chronic nuisance rental dwelling – In general.** If the code official determines that a non-owner occupied dwelling meets the definition of a chronic nuisance as set forth in this chapter and that the owner(s), tenant(s), occupant(s), or property manager caused or permitted the chronic nuisance to exist or continue, the code official shall issue a summons requiring the owner(s), tenant(s), occupant(s) and/or property manager to appear before the Environmental Court to answer the charge of chronic nuisance against the non-owner occupied dwelling and if so proven, present the steps the owner shall take to mitigate or abate such nuisance in accordance with the following procedure:

**1101.2 Notice.** The code official shall notify the owner(s) and tenant(s) in writing via a summons to the court that the non-owner occupied dwelling meets this section's definition of a chronic nuisance. Notices shall comply with Section 107 of this code and shall contain the following information:

- (1) The street address or a legal description sufficient for identification of the chronic nuisance where the activity has occurred;**
- (2) A statement by the code official with a detailed description of the basis upon which he or she has determined that the non-owner occupied dwelling is a chronic nuisance. The code official shall include the following statement prominently and in all capital letters: THIS IS NOT AN EVICTION ACTION BUT AN ACTION TO REQUIRE COMPLIANCE WITH LOCAL ORDINANCES AND LAWS. IF YOU ARE A TENANT WITH QUESTIONS CALL [INSERT CURRENT CODE OFFICIAL CONTACT NUMBER HERE];**
- (3) A notice that the owner or property manager respond and appear before the Environmental Court at the time designated on the notice. Refusal of receipt shall be deemed receipt of notice for the purposes of this section; and**
- (4) The code official shall take reasonable efforts to notify all tenants at the commencement, including but not limited to posting in a conspicuous location, direct mail, the internet or other social media, or the like. If the owner is the defendant, then the owner shall bring to the first hearing a copy of the most recent certified rent roll to be used to provide notice of the proceedings to the tenants of the non-owner occupied dwellings directly affected by the alleged violation.**

**1101.3 Hearing.** At the appearance before the Environmental Court, the Environmental Court shall make a final determination regarding whether the non-owner occupied dwelling is a chronic nuisance. Upon a finding that the non-owner occupied dwelling is a chronic nuisance, the Environmental Court shall require, that there shall be completed, at the owner's expense, within forty-five (45) days of the hearing:

- (1) A comprehensive unit by unit home inspection of the property by the code official; and**
- (2) A site safety inspection of the non-owner occupied dwelling by a qualified inspector as determined by the court;**

At the conclusion of the forty-five (45) days, the Environmental Court shall hold a hearing with the owner wherein the site safety specialist and the code official shall appear and submit their report. The Environmental Court shall specify steps to be taken by the owner to correct the chronic nuisance, as well as order compliance with any site safety recommendations from the site safety specialist which the Environmental Court deems necessary. The Environmental Court shall also schedule a third hearing to take place six (6) months after the second hearing to determine whether proper steps have been taken and whether continued monitoring of the chronic nuisance, if it still exists, remains necessary.

**1101.4 Nuisance activity by tenant or occupant.** If the nuisance activity has been or is being conducted by a tenant or occupant of the non-owner occupied dwelling, then the tenant and/or occupant shall be summoned to court and advised of his or her or their obligation to maintain the premises in compliance with the law and that failure to do so may result in termination of the tenant's and/or occupant's legal right of control of the property and/or the imposition of fines against the tenant and/or occupant.

Notwithstanding anything to the contrary in this section, no owner may use the reporting of a crime by a tenant as a basis for the eviction of a tenant and, to the extent permitted by law, the initiation of an eviction proceeding by an owner within six (6) months of a tenant reporting a crime or exercising any other right under this chapter shall create a rebuttable presumption that the owner acted in violation of this chapter.

**1101.5 Nuisance activity by guests.** If the nuisance activity has been or is being conducted by a guest or guests of a tenant(s) or occupant(s), then the Environmental Court shall order the owner or property manager to:

- (1) Place the individual(s) on Authorization of Agency and bar them from the non-owner occupied dwelling; and**
- (2) Provide the tenant(s) or occupant(s) with written notice that allowing such person(s) on the premises shall constitute a lease violation for which tenancy may be terminated.**

**1101.6 Failure to respond by tenant or occupant.** In the event the notified tenant(s) and/or occupant(s) fail to respond and appear before the Environmental Court or the tenant(s) and/or occupant(s) engaged in or permits the continuation of the nuisance activity, the Environmental Court may deem such continuation as the owner(s) permitting the continuance of the nuisance activity.

**1101.7 Bar on transfer.** The declaration by the Environmental Court that a non-owner occupied dwelling is a chronic nuisance shall act as a bar of any transfer of title of the subject parcel or of any interests pertaining to such subject parcel, including, but not limited to, transfers by tax sale or other foreclosure, transfers, or creation of lien interests in the subject parcel, from the date of the filing until the petition is dismissed or until specific orders of the Environmental Court authorizing a transfer of title .

**1101.8 Defenses.** It is a defense for the owner, tenant(s) and/or occupant(s) of the non-owner occupied dwelling to an action seeking the declaration of the non-owner occupied dwelling as a chronic nuisance that the owner, tenant(s), and/or occupant(s), at the time in question could not, in spite of the exercise of reasonable care and diligence, prevent a third party from engaging in the conduct constituting the subsequent occurrence of nuisance activity.

**1101.8.1** The following shall also be defenses for an owner or property manager to an action seeking the declaration of the non-owner occupied dwelling as a chronic nuisance:

- (1) The owner or property manager has begun legal proceedings to regain control of the non-owner occupied dwelling from a tenant or an occupant who is responsible for the nuisance activity in question;**
- (2) The nuisance activity was conducted by a person who has been banned from the property via Authorization of Agency;**
- (3) An owner, in trying to abate the nuisance activity, attempted legal action to regain control and possession of the non-owner occupied dwelling from a tenant or an occupant but was denied by a court;**
- (4) The owner is the victim of a nuisance activity at the non-owner occupied dwelling that threatens his life or safety;**

(5) The failure to maintain the non-owner occupied dwelling in a condition not constituting a chronic nuisance is due to an act of nature, serious illness of the owner, or legal barrier preventing the owner from making such maintenance or repairs; and

(6) In the case of a chronic nuisance based on criminal activity, in considering the conduct of the owner, the owner has completed a site safety inspection and provided a written report to the Environmental Court, engaged the consulting services of an Environmental Court-approved certified site safety specialist, and is making reasonable progress in implementing the recommendations.

**1102.1 Chronic nuisance rental dwelling – Remedies and fines.**

**1102.2 In general.** If a court determines that a chronic nuisance exists at the non-owner occupied property, the court in its discretion may impose a civil fine not to exceed \$50.00 per unit per day for non-compliance or an injunction requiring the abatement of the nuisance activity that resulted in the activity being declared a chronic nuisance by the court.

**1102.3 Notwithstanding Section 1102.2, and whether or not it is a first or subsequent offense, if the court finds that an owner or property manager willfully failed to implement a reasonable site safety abatement plan ordered by the Environmental Court, the court may impose a civil fine or an injunction restricting, in whole or in part, the occupancy of the non-owner occupied property where the nuisance activity reached the status of a chronic nuisance or any dwelling unit thereof in question.**

**1102.4 Receiver.** (1) The court may appoint a receiver, as it deems necessary, in accordance with the Uniform Commercial Real Estate Receivership Act to bring the non-owner occupied dwelling which has been declared a chronic nuisance into compliance with this chapter. (2) The court may, as it deems necessary, declare a non-owner occupied dwelling to be a public nuisance as defined pursuant to Tenn. Code Ann. § 13-6-106 (NPA).

**1103.1 Report and Review.** The code official shall be responsible for preparing a report containing the following information that shall be submitted to City Council on an annual basis:

- (1) Properties that qualify for referral to the Environmental Court pursuant to this chapter;
- (2) All recommendations and agreements made by the Environmental Court pursuant to this chapter in relation to the properties referred to the Environmental Court; and
- (3) the final disposition of properties referred to the Environmental Court.

**4. The following sections shall be added to Chapter 3:**

**304.2.1. Presumption of lead or mold hazard.** If the code official determines that a lead or mold hazard exists on the premises, then there shall exist a rebuttable presumption that such hazard exists, and the owner shall be subject to all fees and penalties as established under § 103.5. The owner shall have the opportunity to disprove such presumption by presenting evidence that, in the code official's sole discretion, establishes such hazard does not exist. If such presumption is not disproved, the owner shall be subject to all fees and penalties as established under § 103.5.

**Section 305.3.1. Presumption of lead or mold hazard.** If the code official determines that a lead or mold hazard exists at the premises, then there shall exist a rebuttable presumption that such hazard exists,

and the owner shall be subject to all fees and penalties as established under § 103.5. The owner shall have the opportunity to disprove such presumption by presenting evidence that, in the code official's sole discretion, establishes such hazard does not exist. If such presumption is not disproved, the owner shall be subject to all fees and penalties as established under § 103.5.

**5. Section 305.3 is hereby deleted in its entirety and replaced with the following:**

**305.3 Interior Surfaces.** Interior surfaces, including windows and doors, shall be maintained in good, clean, and sanitary condition. The presence of mold is explicitly prohibited. Peeling, chipping, flaking or abraded paint shall be repaired, removed, or covered. All lead hazards shall be eliminated by employing the use of nationally accepted standards and techniques and in compliance with all applicable local, state, and federal laws, statutes, and ordinances, including without limitation: 15 U.S.C. Ch. 53; 42 U.S.C. Ch. 63; 42 U.S.C. Ch. 63A; 40 C.F.R. Ch. 1, Subch. R, Pt. 745; 24 C.F.R. Subt. A, Pt. 35; T.C.A. § 68-131-401 et seq.; and Tenn. Comp. R. & Regs. 1200-01-18-.01 et seq. The use of lead-based paint is specifically prohibited. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

**6. Section 103.5 is hereby deleted in its entirety and replaced with the following:**

The fees for activities and services related to the prosecution of violations of this ordinance shall be in accordance with the fee schedule duly adopted by the Division of Public Works- Department of Neighborhood Improvement.

**7. Section 302.5 is hereby deleted in its entirety and replaced with the following:**

**302.5 Trees and Shrubs.** All trees and shrubs shall be maintained so as not to imperil public health or safety, or cause damage to any structure, premises, or utility services. Upon failure of the owner or agent having charge of a property to properly maintain trees and shrubs after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and remove portions or the entirety of trees or shrubs growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

**8. Section 302.8 is hereby deleted in its entirety and replaced with the following:**

**302.8 Motor vehicles.** Except as provided for in other regulations, no inoperative, rusted, significantly damaged, junked 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. All vehicles parked or stored in single-family residential, duplex or multifamily zoning districts shall be parked or stored on asphalt, concrete, brick, pavers (interlocking or permeable), or gravel/rock. More than four vehicles parked at any one property is prohibited unless within an enclosed

garage. 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. No commercial vehicles may be parked in residential zoning districts. No vehicles carrying hazardous material are permitted in residential zoning districts. No person shall park or store or permit the parking or storing of more than one boat and boat trailer, and no more than one camping trailer or recreational vehicle per dwelling unit. No part of such parking or storage area shall be used for living, sleeping or housekeeping purposes. It is unlawful for any person to park or store any motorized vehicle or equipment, such as, but not limited to campers, trailers, boats or other recreational type equipment, on any residential street in the city.

**9. Section 302.8.2. is hereby deleted in its entirety and replaced with the following:**

**302.8.2. Special Procedure for Abandoned Motor Vehicles.** If the violation or violations are not corrected after the time provided for in the notice, the code official shall order the removal of the vehicle to the city's vehicle storage lot. At the time the vehicle is removed, a tow-in ticket shall be completed in triplicate. At the time a vehicle is moved to the city's vehicle storage lot pursuant to this section, the division of police services shall be notified immediately of such fact.

**10. Section 108.1 is hereby deleted in its entirety and replaced with the following:**

**108.1 General.** Whenever the code official believes a structure or equipment to be dangerous or unsafe, when a structure is found unfit for human occupancy, or a structure is found to be unlawful, a notice stating these findings shall be served in accordance with 108.3 and a condemnation hearing shall be held.

**11. Section 108.3 is hereby deleted in its entirety and replaced with the following:**

**108.3 Condemnation.** Condemnation of a structure or equipment shall only occur after notice and a hearing.

**12. The following sections shall be added to Chapter 1 after Section 108.3 and before Section 108.4**

**108.3.1 Notice of Condemnation Hearing.** The Notice of Condemnation Hearing shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment, mortgagee, and parties in interest, each of whom will be able to file an answer and appear in person. Such notice shall be deemed to be properly served if a copy thereof is: 1. delivered personally; or 2. sent by certified or first-class mail addressed to the last known address. If the notice pertains to equipment, it shall be placed on the equipment at issue. The notice shall be in the form prescribed in Section 107.2.



**108.3.2 Condemnation Hearing.** The Condemnation Hearing shall be before the Code Official or his designated agent, known as the Condemnation Review Officer, not less than 10 days but no more than 30 days after the date of the Notice of Condemnation Hearing. If the Condemnation Review Officer finds that the structure or equipment is dangerous, unsafe, unfit for human occupancy, or is unlawful, he shall state in writing his findings of fact in support and shall issue an Order of Condemnation which: (1) if the repairs can be made at a reasonable cost, specifically if the cost of repair is less than 50 % of the current value of the structure or equipment, condemns the structure or equipment and requires the Owner or responsible party to repair the structure or equipment by bringing it into compliance with this Code and, as determined by the Condemnation Review Officer or the Environmental Court, or (2) if the repairs cannot be made at a reasonable cost, specifically if the cost of repair is greater than 50% of the current value of the structure or equipment, condemns the structure or equipment, and requires the owner to remove or demolish the structure or equipment in a specified time.

The Order of Condemnation which shall be recorded in the office of Register of Deeds for Shelby County. If the owner fails to comply with an order to repair, alter or improve, vacate and close, or demolish the structure or equipment in the specified time stated in the order, the code official can cause the structure or equipment to be repaired, altered, improved, or demolished. The amount to improve, repair, or demolish will be a lien against the real property upon which such cost was incurred.

If the Condemnation Review Officer does not find that the structure or equipment is dangerous, unsafe, unfit for human occupancy, or is unlawful, he shall state in writing his findings of fact in support of this conclusion and dismiss or rescind the condemnation action.

**108.3.3 Appeal of Order of Condemnation.** All appeals of Orders of Condemnation shall be to the Shelby County Environmental Court in accordance with Section 111.

**108.3.4 Salvage materials.** Where any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

**13. Section 108.4 is hereby deleted in its entirety and replaced with the following:**

**108.4 Placarding.** Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given and/or upon issuance of the Notice of Condemnation Hearing the code official shall post on the premises or upon defective equipment a placard stating that the property must not be occupied or that the equipment must not be used. If at the Condemnation

Hearing the Hearing Officer issues an Order of Condemnation, as outlined in Section 108.3.1, 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.

14. Section 108.6 is hereby deleted in its entirety.

15. Section 108.7 is hereby deleted in its entirety.

16. Section 110 is hereby deleted in its entirety, including all subsections.

17. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

THE FOREGOING ORDINANCE

# 5811 PASSED

1st Reading 11/02/21

2nd Reading 11/16/21

3rd Reading 12/07/21

Approved Jamita LaDawanda  
Chairman of Council

Date Signed: 1/18/22

APPROVED:  
[Signature]  
Mayor, City of Memphis

Date Signed: 1/18/22

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Sipes  
Comptroller

Ordinance to establish the City Council meeting dates for 2022.

WHEREAS, Referendum Ordinance 4274, approved by the citizens of Memphis on November 8, 1994, amended the Council's meeting dates to the first and third Tuesdays of each month; and

WHEREAS, the Council wishes to approve the 2022 meeting dates.

NOW, THEREFORE, BE IT RESOLVED that the Memphis City Council will conduct its regular meetings on the first and third Tuesdays of each month:

January 4	January 18
February 1	February 15
March 1	March 22
April 5	April 19
May 3	May 17
June 7	June 21
July 5	July 26
August 2	August 16
September 6	September 20
October 11	October 18
November 1	November 15
December 6	December 20

Sponsor:  
Frank Colvett, Chairman

THE FOREGOING ORDINANCE  
# ORD 586 PASSED  
1st Reading 11/16/21  
2nd Reading 12/07/21  
3rd Reading 12/21/21  
Approved [Signature]  
Chairman of Council

Date Signed: 1/4/22  
APPROVED: [Signature]  
Mayor, City of Memphis  
Date Signed: 1/18/22

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

[Signature]  
Comptroller