

CHAPTER 6

BUILDINGS

ARTICLE I – DANGEROUS BUILDINGS

6-1-1 **DEFINITIONS.** The term "**Dangerous Building**" as used in this Article is hereby to mean and include:

(A) Any building, shed, fence, or other man-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of its or neighboring structures;

(B) Any building, shed, fence, or other man-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;

(C) Any building, shed, fence, or other man-made structure which, by reason of faulty construction or any other cause is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure;

(D) Any building, shed, fence, or other man-made structure which, because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

Any such dangerous building in the City is hereby declared to be a nuisance.

6-1-2 **PROHIBITION.** It shall be unlawful to maintain or permit the existence of any dangerous building in the City and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in a dangerous condition or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

6-1-3 **ABATEMENT.** Whenever the Police Chief or the Building Inspector, or any other authorized officer of the City shall be of the opinion that any building or structure in the City is a dangerous building, he shall file a written statement to this effect with the City Clerk. The Clerk shall thereupon cause written notice to be served upon the owner thereof and upon the occupant thereof, if any, by registered mail or by personal service. Such notices shall state that the building has been declared to be in a dangerous condition, and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied at once. Such notice shall be served upon the proper parties not less than **fifteen (15) days** before the City shall file application with the County Circuit Court for an order authorizing the demolition or repair of said building. Such notice may be in the following terms:

" TO: _____, (OWNER/
OCCUPANT of premises) of the premises known and described as _____
_____.

'You are hereby notified that _____
_____ (describe building)
on the premises above mentioned has been condemned as a nuisance and a dangerous
building after inspection by _____

_____.

'The causes for this decision are _____

(here insert the facts as to the dangerous condition)

'You must remedy this condition or demolish the building immediately within
fifteen (15) days from the date of this notice or the City will proceed to do so."

In the event that the building is not demolished or repaired or altered **within
the fifteen (15) day** period of time elapsing from the date of the service of notice,
then the City shall institute application before the County Circuit Court requesting an
order authorizing the demolition, alteration, or repair of said building premises and the
cost of such entailments shall be recovered from the owner or owners of such real
estate and shall be a lien thereon.

6-1-4 **LIEN.** Charges for demolishing, repairing or altering of such
building shall be a lien upon the premises. A bill representing the cost and expense
incurred or payable for the service shall be presented to the owner. If this bill is not
paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and
expense thereof incurred by the City shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the costs and expenses
incurred or payable for the service.

6-1-5 **PAYMENT.** Notice of such lien claim shall be mailed to the owner
of the premises if his address is known. Upon payment of the cost and expense after
notice of lien has been filed, the lien shall be released by the City or person in whose
name the lien has been filed and the release shall be filed of record in the same manner
as filing notice of the lien.

6-1-6 FORECLOSURE OF LIEN. Property subject to a lien for unpaid charges shall be sold for non-payment of the same, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City, after lien is in effect for **sixty (60) days**.

ARTICLE II - BUILDING AS NUISANCE

6-2-1 BUILDING CONDITION - NUISANCE. The Mayor or his designated representative shall report to the City Council when any building in the City is in a dangerous condition and constitutes a nuisance.

6-2-2 TIME LIMIT. The owner of such building shall repair or alter it so as to make it safe within **thirty (30) days** from the time the notice is served upon him in the manner provided by law.

6-2-3 NOTIFICATION. The Mayor or his designated representative shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the Mayor. This notice shall remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this notice until such notice is complied with."

6-2-4 DANGEROUS AND UNSAFE BUILDINGS DEFINED. All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%) or more** of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City.

(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this City.

(J) Those buildings existing in violation of any provision of the Building Code of this City, or any provision of the Fire Prevention Code, or any other ordinances of the City.

(K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.

(L) Those buildings which are uncompleted or abandoned.

6-2-5 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards shall be followed in substance by the Mayor or his authorized representative in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case where a "dangerous and unsafe building" is **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the City, or statute of the State of Illinois, it shall be demolished.
(See "Non-Conforming Uses" of the Zoning Code)

6-2-6 DANGEROUS AND UNSAFE BUILDINGS - NUISANCES. All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

6-2-7 DUTIES OF THE ATTORNEY. The City Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with by the owner and when requested to do so by the Mayor or his authorized representative.

6-2-8 LIENS. The cost of repair, demolition, vacation, or enclosure shall be recoverable from the owner or owners of such real estate and shall be a lien thereon, which lien shall be subordinate to all prior existing liens and encumbrances; provided that within **sixty (60) days** after said cost and expense is incurred, the City or person performing the service by authority of the City, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

- (A) A description of the real estate sufficient for identification therefor;
- (B) The amount of money representing the cost and expense incurred or payable for the service; and
- (C) The date or dates when said cost and expense was incurred by the City.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the City or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced **within three (3) years** after the date of filing notice of lien.

ARTICLE III - BUILDING OPERATIONS

6-3-1 **USE OF STREETS.** The use of streets for the storage of materials in the process of construction or alteration of a building may be granted where the same will not unduly interfere with traffic and will not reduce the usable width of the roadway to less than **eighteen (18) feet**; provided that no portion of the street other than that directly abutting on the premises on which work is being done shall be used except with the consent of the owner or occupant of the premises abutting on such portion. Any person seeking to make such use of the street shall file with the City Clerk a bond with corporate sureties to be approved by the City Council, to indemnify the City for any loss or damage which may be incurred by it by reason of such use and occupation.

6-3-2 **NIGHT OPERATIONS.** No construction or alteration operations shall be carried on at nighttime if the same are accompanied by loud noises.

6-3-3 **SIDEWALKS.** No sidewalk shall be obstructed in the course of building, construction or alteration without a special permit from the Mayor or his authorized representative being first obtained.

6-3-4 **SAFEGUARDS.** It shall be the duty of the person doing any construction, altering or wrecking work in the City to do the same with proper care for the safety of persons and property. Warnings, barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic; and temporary roofs over sidewalks shall be constructed wherever there is a danger to pedestrians from falling articles or materials. **(See Chapter 33 - Streets for additional requirements)**

ARTICLE IV – INTERNATIONAL RESIDENTIAL BUILDING CODE

6-4-1 INTERNATIONAL RESIDENTIAL BUILDING CODE ADOPTED.

The 2003 International Residential Code for One- and Two-Family Dwellings published January, 2003 is hereby adopted as the Building Code for new single- and two-family dwellings in the City, such Code being adopted and made a part of this Article as though written verbatim herein. This Code is to be known as the Residential Code for One- and Two-Family Dwellings of the City.

(A) The property owner, or his agent, shall pay a **Three Hundred Dollar (\$300.00)** inspection fee (**Fifty Dollars (\$50.00)** per inspection) to the City at the time of filing of his building permit application. The inspection fee shall be applied to the following inspections:

- (1) Foundation;
- (2) Below grade plumbing;
- (3) Backfill;
- (4) Frame and electrical;
- (5) Above grade plumbing; and
- (6) Occupancy.

(B) In the event any inspection fails, the owner, or his agent, will cure the cause of the failed inspection and then request a re-inspection. At the time of filing a written request for re-inspection, the owner, or his agent, shall pay an additional inspection fee of **Fifty Dollars (\$50.00)**.

(C) No inspection or re-inspection shall be made unless the owner, or his agent, requests such inspection of the Code Administrator at least **forty-eight (48) hours** in advance of the desired time for the inspection.

(Ord. No. 1132; 05-01-06)

ARTICLE V – INTERNATIONAL BUILDING CODE

6-5-1 **ADOPTIOKN OF INTERNATIONAL BUILDING CODE.** A certain document, **one (1) copy** of which is on file in the office of the City Clerk, being marked and designated as the *International Building Code*, 2003 edition, including Appendix Chapters A through G as published by the International Code Council, be and is hereby adopted as the Building Code of the City for regulating and governing the conditions and maintenance of all property, buildings and structures referred to therein; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the Circuit Clerk of the City are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article, with the additions, insertions, deletions and changes, if any, prescribed in **Section 6-5-2** of this Article.

6-5-2 **INSERTIONS AND SUBSTITUTIONS.** The following sections are hereby revised:

(A) Section 101.1. Insert: City of Red Bud, Illinois.

(B) Section 1612.3. Substitute: The flood hazard areas shall consist of those areas of special flood hazard as identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map, existing as of the date of this Article and as amended from time to time by the Federal Emergency Management Agency. The Flood Insurance Rate Map referred to hereinabove is hereby adopted by reference and declared to be a part of this Section.

(C) Section 3410.2. Insert: March 3, 2008.

(Ord. No. 1180; 03-03-08)

ARTICLE VI - FLOOD PLAIN CODE

6-6-1 **PURPOSE.** This Code is enacted pursuant to the police powers granted to the City by the **Illinois Municipal Code, (65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2)** in order to accomplish the following purposes:

- (A) To prevent unwise developments from increasing flood or drainage hazards to others;
- (B) To protect new buildings and major improvements to buildings from flood damage;
- (C) To promote and protect health, safety and general welfare of the citizens from the hazards of flooding;
- (D) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (E) To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (F) To make federally subsidized flood insurance available; and
- (G) To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

6-6-2 **DEFINITIONS.** Unless specifically defined below, word or phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable application.

DEVELOPMENT: Any man-made change to real estate including, but not necessarily limited to:

- (A) Demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
- (B) Substantial improvement of an existing building;
- (C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days** per year;
- (D) Installation of utilities, construction of roads, bridges, culverts or similar projects;
- (E) Construction or erection of levees, dams, walls, or fences;
- (F) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- (G) Storage of materials including the placement of gas and liquid storage tanks; and

(H) Channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not routine include maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOODPLAIN: Any land area susceptible to being inundated by water from any source (See “Flood”).

FLOODPROOFING: Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

MANUFACTURED HOME: A structure transportable in **one (1)** or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

STRUCTURE: For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes RVs and travel trailers on site for more than **one hundred eighty (180) days**.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed **fifty percent (50%)** of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds **fifty percent (50%)** of the market value of the structure before the improvement or repair is started. “Substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

6-6-3 PERMIT REQUIREMENTS. No person, firm, corporation, or governmental body not exempted by state law shall commence any development activity without first obtaining a development permit from the Code Administrator.

6-6-4 PERMIT APPLICATION. To obtain a permit the applicant must first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the Code Administrator.

6-6-5 DUTIES OF THE CODE ADMINISTRATOR. The Code Administrator shall be responsible for the general administration of this Code and ensure that all development activities under the jurisdiction of the City meet the requirements of this Code. The Code Administrator shall be responsible for receiving applications and examining the plans and specifications for the application. The Code Administrator shall require any additional measures which are necessary to meet the minimum requirements of this Code.

6-6-6 REVIEW OF PROPOSED DEVELOPMENT.

(A) The Code Administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(B) If development is proposed for a channel or adjacent area of a stream draining **one (1) square mile** or more, the applicant must first secure a permit from the Illinois Division of Water Resources, or a letter stating "Permit Not Required."

6-6-7 REVIEW OF PERMIT APPLICATION.

The Code Administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall:

(A) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure.

(B) be constructed with materials resistant to flood damage.

(C) be constructed by methods and practices that minimize flood damage.

(D) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

6-6-8 **REVIEWS OF SUBDIVISION PROPOSALS.** The Code Administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that:

- (A) all such proposals are consistent with the need to minimize flood damage within the flood prone area,
- (B) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (C) adequate drainage is provided to reduce exposure of flood hazards.

6-6-9 **WATER SUPPLY SYSTEMS.** The Code Administrator shall require within flood prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

6-6-10 **SANITARY SEWAGE AND WASTE DISPOSAL SYSTEMS.** The Code Administrator shall require within flood prone areas:

- (A) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and
- (B) on-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

6-1-11 **VARIANCES.** Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Planning Commission for a variance. The Planning Commission shall review the applicant's request for a variance and shall submit its recommendation to the City Council. The City Council may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

- (A) No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:
 - (1) The development activity cannot be located outside the floodplain;
 - (2) An exceptional hardship would result if the variance were not granted;
 - (3) The relief requested is the minimum necessary;
 - (4) There will be no additional threat to public health, safety, or creation of a nuisance;
 - (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;

- (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
 - (7) All other state and federal permits have been obtained.
- (B) The Planning Commission shall notify an applicant in writing that a variance from the requirements of the building protection standards that would lessen the degree of protection to a building will:
- (1) Result in increased premium rates for flood insurance up to **Twenty-Five Dollars (\$25.00)** per **One Hundred Dollars (\$100.00)** of insurance coverage;
 - (2) Increase the risks to life and property; and
 - (3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

6-6-12 PENALTY. Any person who violates this Code shall upon conviction thereof be fined not less than **Twenty-Five Dollars (\$25.00)** nor more than **Two Hundred Fifty Dollars (\$250.00)**. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

6-6-13 ABROGATION AND GREATER RESTRICTIONS. This Code repeals and replaces any other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program. However, this Code does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Code and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6-6-14 DISCLAIMER OF LIABILITY. The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the City or any officer or employee thereof for any flood damage that results from proper reliance on this Code or any administrative decision.

(Ord. No. 1189; 07-07-08)

ARTICLE VII - ABANDONED REAL ESTATE

6-7-1 DEFINITIONS. For purposes of this Article, the following words and phrases used in this Article are defined as follows:

"Abandoned" means a Property that is Vacant and is the subject of (a) a pending Mortgage Foreclosure complaint filed with the Circuit Court Clerk; (b) a pending tax assessor's lien sale; (c) a Foreclosure sale where the title was retained by the Mortgage involved in the Foreclosure; or (d) any Property transferred under a Deed in Lieu of Foreclosure.

"Accessible Property" means a Property that is accessible through a compromised or breached gate, fence, wall, etc.

"Accessible Structure" means a structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.

"Agreement" means any agreement or written instrument which provides that title to Property shall be transferred or conveyed from one Owner to another Owner after the sale, trade, transfer or exchange.

"Assignment of Rents" means an instrument that transfers the Mortgagee's interest under a Mortgage from one entity to another.

"Building" means any improved Property, or portion thereof, situated in the City, and shall include the buildings and structures located on such improved Property.

"Buyer" means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for Property described in an Agreement as defined in this Section.

"Code Official" has the definition set forth in **Section 40-2-2** of the City Code.

"Dangerous Building" has the definition set forth in **Section 6-1-1** of the City Code.

"Days" means consecutive calendar days.

"Deed in Lieu of Foreclosure" means a recorded document that transfers ownership of a Property from the Mortgagor to the holder of a Mortgage.

"Default" means the failure to fulfill a contractual obligation, monetary or conditional.

"Evidence of Vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the Property is Vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or items consistent with occupancy, or statements by neighbors, passersby, delivery agents, or government employees that the Property is Vacant.

"Foreclosure" means the process by which a Property, placed as security for a real estate loan, is sold at auction to terminate all rights of the Mortgagor or his grantee in the Property and to satisfy the debt if the Mortgagor defaults.

"Local" means within **forty (40) miles** distance of the subject Property.

"Mortgage" means an instrument by which an interest in real estate is transferred as security for a real estate loan.

"Mortgagee" means a lender under a note secured by a Mortgage, or person or entity to whom the lender transfers its interest under the Mortgage.

"Mortgagor" means a borrower under a Mortgage, who transfers an interest in real estate as security for a real estate loan to a Mortgagee as security for the payment of a debt.

"Neighborhood Standard" means those conditions that are present on a simple majority of properties within a **three hundred (300) foot** radius of an individual Property. A Property that is the subject of a neighborhood standard comparison, or any other Abandoned Property within the **three hundred (300) foot** radius, shall not be counted toward the simple majority.

"Out of Area" means in excess of **forty (40) miles** distance of the subject Property.

"Owner" means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any Property.

"Property" means any unimproved or improved real Property or portion thereof, situated in the City and includes the Buildings or structures located on the Property regardless of condition.

"Securing" means such measures as may be directed by the Code Official or his or her designee that assist in rendering the Property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or boarding of doors, windows, or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

"Vacant" means a Building or structure that is not legally occupied.

6-7-2 RECORDATION OF TRANSFER OF MORTGAGE. Within **ten (10) days** of the purchase or transfer of a Mortgage secured by Property, the new Mortgagee shall file with the Code Official, an Assignment of Rents, or similar document, that lists the name of the corporation or individual, the mailing address and contact phone number of the new Mortgagee responsible for receiving payments associated with the loan or Mortgage.

6-7-3 REGISTRATION. Any Mortgagee who holds a Mortgage on a Property located within the City shall perform an inspection of the Property that is the security for the loan within **ten (10) days** of filing a Foreclosure complaint with the Circuit Court Clerk. If the Property is found to be Vacant or shows Evidence of Vacancy, it is, by this Article deemed Abandoned and the Mortgagee shall, within **ten (10) days** of the inspection, register the Property with the Code Official or his or her designee on forms provided by the City.

If the Property is occupied but remains subject to a pending Foreclosure complaint filed with the Circuit Court Clerk it shall be inspected by the Mortgagee or his designee, monthly until (1) the Mortgagor or other party remedies the Default or (2) it is found to be Vacant or shows Evidence of Vacancy at which time it is deemed Abandoned, and the Mortgagee shall, within **ten (10) days** of that inspection, register the Property with the Code Official or his designee on forms provided by the City.

In either case the registration shall contain the name of the Mortgagee, the direct street or office mailing address of the Mortgagee (no P.O. boxes), a direct contact name and phone number for the Mortgagee and, in the case of a corporation or Out-of-Area Mortgagee, the local Property management person or entity responsible for the security, maintenance and marketing of the Property.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due **January 1st** of each year and must be received no later than **January 31st** of the year due.

This Section shall also apply to Property that has been the subject of a Foreclosure sale where the title was transferred to the Mortgagee involved in the Foreclosure and any Property transferred under a Deed in Lieu of Foreclosure.

Property subject to this Article shall remain under the annual registration requirement, security and maintenance standards of this Section as long as it remains Vacant.

Any person, firm or corporation that has registered a Property under this Article must report any change of information contained in this registration within **ten (10) days** of the change.

6-7-4 MAINTENANCE REQUIREMENTS. Property subject to this Section shall be, in comparison to the Neighborhood Standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the Property is abandoned.

The Property shall be maintained free of graffiti, tagging or similar markings by removal of painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the Neighborhood Standard at the time registration was required.

Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark.

Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning, and mowing of required landscape and removal of all trimmings.

Pools and spas shall be closed.

Adherence to this Section does not relieve the Mortgagee or Property Owner of any obligations set forth in any covenants, conditions and restrictions or homeowners' association rules and regulations which may apply to the Property.

6-7-5 SECURITY REQUIREMENTS. Property subject to this Section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding or garage), gates and any other opening of such size that it may allow a child to access the interior of the Property and/or structure(s). In the case of broken windows securing means the reglazing or boarding of the window.

If the Property is owned by a corporation or Out-of-Area Mortgagee or Owner, a local Property management person or entity shall be contracted to perform weekly inspections to verify that the requirements of this Section, and any other applicable laws, are being met.

The Property shall be posted with the name and **twenty-four (24) hour** contact phone number of the local Property management person or entity. The posting shall be no less than **eighteen (18) inches** by **twenty-four (24) inches** and shall be of a font that is legible from a distance of **forty-five (45) feet** and shall contain along with the name and **twenty-four (24) hour** contact number the words, "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed on the interior of a window facing the street to the front of the Property so it is visible from the street, or secured to the exterior of the building or structure facing the street to the front of the Property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the Property but not readily accessible to the vandals. Exterior posting must be constructed of and printed with weather resistant materials.

The local Property management person or entity shall inspect the Property on a weekly basis to determine if the Property is in compliance with the requirements of the Chapter.

6-7-6 ADDITIONAL AUTHORITY. In addition to the enforcement remedies established in **Division IV** of **Chapter 1, Articles I and II** of **Chapter 6** and **Chapter 25** of the City Code, the Code Official or his or her designee shall have the authority to require the Mortgagor or Owner of any Property affected by this Section to implement additional maintenance or security measures including but not limited to securing all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, or other measures as may be reasonably required to arrest the decline of the Property.

6-7-7 FEES. The fees for registering an Abandoned Property shall be **Twenty-Five Dollars (\$25.00)**. Registration fees shall not be prorated.

6-7-8 ENFORCEMENT. Violations of this Chapter may be enforced in any combination as allowed in **Division IV** of **Chapter 1, Article I and II** of **Chapter 6** and **Chapter 25** of the City Code.

6-7-9 **APPEALS.** Any person aggrieved by any of the requirements of this Section may appeal as provided in **Article IV** of **Chapter 40** of the City Code.

6-7-10 **VIOLATION/PENALTY.** Violations of this Chapter shall be treated as a strict liability offense regardless of intent. Any person, firm or corporation that violates any portion of this Article shall be subject to prosecution or administrative enforcement under **Division IV** of **Chapter 1**, **Articles I** and **II** of **Chapter 6** and **Chapter 25** of the City Code.

(Ord. No. 1195; 11-03-08)

ARTICLE VIII – PROPERTY MAINTENANCE CODE

6-8-1 **PURPOSE.** This Code is to promote and to protect the public health, safety, and the general welfare of the people in all existing residential structures, or portions of structures being used for residential purposes, by establishing minimum standards for safe and sanitary maintenance of such structures.

6-8-2 **DEFINITIONS.**

(A) **Deterioration or deteriorate:** To weaken, disintegrate, corrode, rust, or decay and lose effectiveness.

(B) **Good condition or good repair or good working condition:** The state of a structure, part of a structure, fixture, or equipment such that the structure, part of a structure, fixture, or equipment is one or more of the following:

- (1) Coated with preservative if necessary to prevent deterioration.
- (2) Free from rot or other deterioration.
- (3) Does not move when a reasonable amount of force or pressure is applied if designed not to move.
- (4) Fully functional for the purpose intended.
- (5) Not reasonably likely to cause injury due to its condition.
- (6) Not damaged, loose, or worn out.
- (7) Installed in accordance with the manufacturer’s specifications.

(C) **Junk:** Scrap materials such as vehicles, machinery, equipment and other items not in operable condition or parts thereof, and metals, glass, paper, plastic, rags, and rubber tires.

(D) **Mobile home:** A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be permanent habitation and designed to permit the occupancy thereof as a dwelling place for one or more persons, provided that any such structure resting on a permanent foundation, with wheels, tongue, lug bolts and hitch permanently removed, shall not be construed as a “mobile home.”

(E) **Sanitary:** Free from conditions including, but not limited to, accumulations of garbage or other putrescible matter, feces, mold and mildew, and other similar conditions that pose a threat to human health.

(F) **Structurally sound:** Designed and maintained to be capable of safely supporting the imposed dead and live loads and free from deterioration that significantly diminishes the load-carrying capacity of the structural components.

6-8-3 VIOLATIONS. Noncompliance with the following shall constitute a violation of this Code:

(A) Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto including but not limited to handrails and guards, shall be maintained structurally sound and in good repair, with proper anchorage and capable of supporting the imposed loads.

(B) Every chimney, or similar appurtenances, shall be maintained structurally sound and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against deterioration by periodic application of weather-coating materials, such as paint or similar surface treatment. All chimneys must be capped and firmly attached to keep animals or rodents out of the structure.

(C) Every window shall be kept in good repair and weather tight. A window pane that is broken, cracked, or missing must be replaced.

(D) Every garage door, whether attached to the dwelling structure or a separate structure, shall be maintained in good repair and good working condition. All garage doors must seal the inside of the structure from animals or rodents.

(E) Every exterior wall and foundation shall be structurally sound and in good repair, including free from holes, breaks, and loose or rotting materials. Further, every exterior wall must have a maintained weatherproof finish covering to prevent deterioration. House wrap is not an approved finish covering.

(F) Every roof and flashing shall be structurally sound, tight, in good repair, and not have defects that admit rain in to the structure. Tarps, plastics, or any other coverings are not allowed on roofs, except for emergency circumstances or repairs which shall not last longer than **thirty (30) days**.

(G) Every roof drain, gutter, downspout, or similar drainage shall be maintained in good repair and free from obstructions.

(H) Every accessory structure, including detached garages, fences, and walls shall be maintained structurally sound and in good repair.

(I) Every swimming pool shall be maintained in a clean and sanitary condition and kept in good repair. If not kept in a clean and sanitary condition, then the pool must be drained and covered as to prevent any standing or pooling water.

(J) Every mobile home shall have skirting maintained in good repair and free from cracks, gaps or other openings so as to prevent the intrusion of animals or rodents under the mobile home.

(K) No furniture, appliances, or other items may be used or stored outside of a structure unless the item is specifically made for outdoor usage.

(L) No storage of personal property in boxes, cartons, containers, or other similar materials shall be allowed on the exterior of a structure or its premises unless the storage container is specifically made for outdoor usage.

(M) No bush, plant, or tree of any kind on a premises may block the view of a driver lawfully operating their vehicle, or block the path of any pedestrian from any street, sidewalk, path, or public right of way. Any such bush, plant, or tree must be trimmed or cut back by the premises owner to comply with this registration.

(N) No bush, plant, or tree may grow around the foundation of any structure so as to damage the foundation of the structure and make it not structurally sound and in good repair. Any such bush, plant, or tree must be removed from the premises.

(O) No storage of personal property, household items, or junk may occur on or under a carport, porch, deck, or patio.

(P) Every structure shall have their 911 street address numbers posted on their house, garage, or mailbox in a position plainly legible and visible from the street fronting the premises. These numbers shall contrast with their background, be Arabic numerals or alphabet letters, and shall not be less than **four (4) inches** in height with a minimum width of **one-half (0.5) inches**.

6-8-4 ENFORCEMENT.

(A) The Code Administrator shall be responsible for the general administration of this Code and ensure the enforcement of its provisions. The Code Administrator may make any forms or notices necessary to administer this Code. While performing this duty, the Code Administrator may request assistance from any City Department Head and the City Attorney where necessary.

(B) If the Code Administrator finds any violation of this Code, then they, or any other person the Mayor may designate, shall serve notice in writing personally, or by certified mail with return receipt, upon the owner, occupant, agent, or person in possession or control of any lot, building, or premises in or upon which any violation may be found, or who may be the owner or the cause of such violation, requiring them to abate the violation in such a manner as prescribed by the Code Administrator within the following time frames to prevent further remedial actions or the issuance of a court summons:

- (1) Violations of **Section 6-8-3(A)-(D), (G), and (H)** shall be abated within **ninety (90) days** of the notice.
- (2) Violations of **Section 6-8-3(E) and (F)** shall be abated within **one hundred eighty (180) days** of the notice.
- (3) Violations of **Section 6-8-3(I)-(N)** shall be abated within **thirty (30) days** of the notice.
- (4) Violations of **Section 6-8-3(O)** shall be abated within **fourteen (14) days** of the notice.
- (5) Violations of **Section 6-8-3(P)** shall be abated within **seven (7) days** of the notice.

(C) If the person so served does not abate the violation within the specified time frame, then such person shall be guilty of a violation of this Code and the City may take all legal actions necessary to abate the violation.

(D) Any violation of this Code shall be punishable by a fine of at least **One Hundred Dollars (\$100.00)** plus court costs for each offense. Any subsequent violation of this Code by the same individual for the same violation within the preceding **twelve (12) months**, shall be punishable by a fine in an amount that is **Fifty Dollars (\$50.00)** more than the last fine imposed plus court costs for each offense. In no instance shall any fine be more than **Seven Hundred Fifty Dollars (\$750.00)** exclusive of court costs for any one offense.

(E) Nothing contained in this Section shall prevent the City from taking any other lawful action that may be necessary to secure compliance with this Code.

(Ord. No. 1375; 05-01-17)