

ORDINANCE 4291

AN ORDINANCE OF THE CITY OF HARTSVILLE, SOUTH CAROLINA AMENDING AND RESTATING SEC. 10-38 OF THE CITY'S CODE OF ORDINANCES (AS MOST RECENTLY ENACTED BY ORDINANCE NUMBER 4115 DATED MAY 7, 2013) TO PROVIDE FOR THE FURTHER IMPLEMENTATION AND ADOPTION OF THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE, AS AMENDED; AMENDING CHAPTER 54 "NUISANCES", ARTICLE III "GENERAL PROPERTY GROUNDS MAINTENANCE" PURSUANT TO SEC. 10-38; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the City of Hartsville, South Carolina (the "City") is a municipal corporation created under the laws of the State of South Carolina;

WHEREAS, it is the responsibility of the City to ensure the general safety and welfare of the public, which includes the responsibility to identify and abate public nuisances;

WHEREAS, Section 5-7-80 of the Code of Laws of South Carolina, 1976, as amended ("Section 5-7-80"), authorizes the City to provide by ordinance that owners of real property within the municipality keep such property clean and free of rubbish, debris and other unhealthy and unsightly material or conditions that constitute a public nuisance;

WHEREAS, Section 5-7-80 further provides the City may provide by ordinance for notification to owners of real property of conditions needing correction, requiring the correction of the offensive conditions, providing the terms and conditions under which the City or persons employed by the City may go upon the property to correct the conditions, and providing that the cost to the City of correcting such conditions shall become a lien upon such real property and shall be collectable in the same manner as municipal taxes;

WHEREAS, the International Property Maintenance Code (the "IPMC") provides standards and regulation that govern the conditions and maintenance of all real property, buildings and structures;

WHEREAS, the IPMC provides 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;

WHEREAS, the IPMC further provides procedures for the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures;

WHEREAS, the first edition of the IPMC was published in 1998 and new editions are generally promulgated every three years;

WHEREAS, the City last implemented the provisions of the 2006 edition of the IPMC through the enactment of Ordinance 4115 dated May 7, 2013 ("Ordinance 4115"), the provisions of which codified the 2006 edition of the IPMC and provided for certain amended procedures

regarding violations, corrections, abatements, fines, fees, penalties and other corrective techniques;

WHEREAS, the most current edition of the IPMC was promulgated in 2015;

WHEREAS, City has determined to amend and restate the provisions of Ordinance 4115 by and through the enactment of this Ordinance, the provisions of which codify the 2015 edition of the IPMC, subject to certain amended procedures regarding violations, corrections, abatements, fines, fees, penalties and other corrective actions;

WHEREAS, the implementation of the IPMC does not abolish, diminish or impair other remedies available to the City;

WHEREAS, the City, by and through the provisions of Ordinance 4047 dated April 21, 2011, implemented Chapter 54 “Nuisances”, Article III “General Property Grounds Maintenance” of its Code of Ordinances (the “General Property Maintenance Code”);

WHEREAS, by and through the provisions of the IPMC enacted under this Ordinance, the enforcement procedures of the General Property Maintenance Code shall be amended and enforced through the provisions applicable to the IPMC enacted under this Ordinance; and

WHEREAS, the City desires to utilize certain procedures and administrative resources under the Home Rule Amendments to the South Carolina Constitution, Section 5-7-80 and related statutory provisions, the IPMC and other available remedies and resources in order to permit the City, by and through law enforcement officials and code enforcement officials, to take all action necessary to abate, remediate and demolish public nuisances and charge the cost of corrective action back to the offending property owner as a direct charge or lien upon the offender’s real property.

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Hartsville, the governing body of the City, as follows:

Section 1. *Adoption of the 2015 Edition of the IPMC; Revisions Thereto.*

(a) There is hereby enacted by the City, for the purposes discussed above and generally to prescribe minimum standards to the use, occupancy and maintenance of all existing real property, real property improvements, any other existing premises within the City, the International Property Maintenance Code, 2015 Edition (previously defined above as the IPMC). Amendments, modifications and succeeding editions of IPMC or succeeding amendments or modifications to IPMC shall become effective within the City only if approved and enacted by the City pursuant to a subsequent ordinance. The applicable provisions of the 2015 Edition of the IPMC shall remain in full force and effect notwithstanding the release of any subsequent edition of the IPMC that is not enacted by the City. Except as amended by the provisions of Section 1(b) hereof, each of and all of the model regulations, provisions, penalties, conditions and terms of the IPMC are hereby enacted by the City. The provisions of the IPMC shall be available for review in the office of the City Clerk.

(b) While the City has generally enacted the entirety of the IPMC, there are certain provisions of the IPMC that have been amended and restated by the City as set forth on Exhibit A hereto. When applying the provisions of the IPMC, specific reference shall be made to the provisions of Exhibit A to the extent such provisions may amend, modify or otherwise restate provisions of the IPMC. Such amendments and revisions to the IPMC shall be available for review in the office of the City Clerk.

Section 2. Amendment of Section 10-38. Chapter 10 “Building and Building Regulations,” Article II “Technical Codes,” Section 10-38 “International Property Maintenance Code, 2006 Edition,” as previously enacted by the provisions of Ordinance 4115, is hereby amended and restated in its entirety to now read as follows:

Chapter 10 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. – TECHNICAL CODES

Sec. 10-38. - International Property Maintenance Code, 2006 Edition.

(a) *Adoption of the International Property Maintenance Code (IPMC).* This section is to be known and referred to as the Property Maintenance Code of the City of Hartsville. There is hereby adopted by the city the 2015 edition of the IPMC, a copy of which, along with applicable amendments, is to be kept permanently on file in the administrative office at city hall as part of the general ordinances of the city, with same being incorporated herein by reference, as amended pursuant to Section 10-38(b), without the necessity of setting out and copying in its entirety the applicable IPMC, 2015 Edition.

(b) *Amendments and Revisions.* In implementing the provisions of the 2015 edition of the IPMC, the City has determined to implement certain amendments and modifications to the provisions of the IPMC. In keeping therewith, the City has determined to amend, modify or restate the following provisions of the IPMC: **CHAPTER 1 – ADMINISTRATION; Section 3.02.4 Weeds; Section 3.04.14 Insect Screens; Section 6.02.2 Residential Occupancies; Section 6.02.3 Heat Supply; and Section 6.02.4 Occupiable Workspaces.** To the extent a section of the IPMC is not amended and restated by the provisions hereof, the original provisions of the IPMC shall be applicable. The applicable amendments and revisions to the IPMC referenced herein are to be kept permanently on file in the administrative office at city hall as part of the general ordinances of the city, with same being incorporated herein by reference without the necessity of setting out and copying the entirety of such amendments and revisions herein.

Section 4. Amendment of Section 54-67. By and through the authorizations herein, Chapter 54 “Nuisances,” Article III “General Property Grounds Maintenance,” Sec. 54-67 “Procedure for the abatement of public nuisances” in the City’s Code of Ordinances shall be amended and restated as follows:

Chapter 54 – NUISANCES

ARTICLE III – GENERAL PROPERTY GROUNDS MAINTENANCE

Sec. 54-67 – Procedure for the abatement of public nuisances.

Whenever the code official determines that a nuisance has occurred or is occurring under the provisions of Sec. 54-66, the violation, including notice, service, orders and appeals, shall be enforced under the provisions of Sec. 10-38 of this Code of Ordinances.

Section 5. The implementation of the IPMC does not abolish, diminish or impair remedies otherwise available to the City.

Section 6. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, is held or determined to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 7. That nothing in this Ordinance or in the IPMC hereby enacted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 8. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict or inconsistency. This ordinance shall take effect immediately upon its enactment by the City Council of the City of Hartsville.

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DONE AND ENACTED BY CITY COUNCIL ASSEMBLED, this ____ day of June, 2017.

CITY OF HARTSVILLE, SOUTH CAROLINA

Carl M. (Mel) Pennington IV, Mayor

(SEAL)

ATTEST:

Sherron L. Skipper, City Clerk

First Reading: May 09, 2017

Public Hearing:

Final Reading:

Exhibit A

Amendments to the International Property Maintenance Code, 2015 Edition

By the terms of Ordinance No. dated June , 2017, the City of Hartsville, South Carolina (the “City”), by and through the City Council of the City, as the governing body thereof, did codify the International Property Maintenance Code, 2015 Edition (the “IPMC”). In implementing the provisions of the IPMC, the City has determined to implement certain amendments and modifications to the provisions of the IPMC. In keeping therewith, the City has determined to amend, modify or restate the following provisions of the IPMC: **CHAPTER 1 – ADMINISTRATION; Section 3.02.4 Weeds; Section 3.04.14 Insect Screens; Section 6.02.2 Residential Occupancies; Section 6.02.3 Heat Supply; and Section 6.02.4 Occupiable Workspaces.** To the extent a section of the IPMC is not amended and restated by the provisions hereof, the original provisions of the IPMC shall be applicable.

CHAPTER 1

ADMINISTRATION

**SECTION 101
GENERAL**

101.1 Title. These regulations shall be known as the *Property Maintenance Code of the City of Hartsville, South Carolina* (the “*City*”), and hereinafter referred to as “*this code*” or the “*IPMC*”.

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, an owner’s authorized agent, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far 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 demolished to provide a minimum level of health and safety as required herein.

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

**SECTION 102
APPLICABILITY**

102.1 General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive provisions compatible with the other provisions of the City’s Code of Ordinances and pertinent provisions of the Code of Laws of South Carolina 1976, as amended, shall govern. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

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

responsible for the maintenance of buildings, structures and premises.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, and all other work required under the IPMC shall be done in accordance with the procedures and provisions of the *International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, International Plumbing Code* and *National Electrical Code*, to the extent lawfully enacted and in effect in the City. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*, to the extent it has any application in the City.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe or unsanitary, or otherwise in violation of applicable law.

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

102.6 Historic buildings. The provisions of this code shall not be mandatory for any existing building or structure designated as a "historic building" when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of any State-mandated Standard Code reference in Chapter 8 shall apply.

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official, based on compliance with the intent of this IPMC and reasonable, objective standards as expressed by that official.

**SECTION 103
DEPARTMENT OF PROPERTY
MAINTENANCE INSPECTION**

103.1 General. The code enforcement officer or officers, also referred to herein as the "code official," work(s) in the Fire Department under the direct supervision of the Fire Chief and the indirect supervision of the City Manager. The code official is in charge of property maintenance inspection, as well as code enforcement. He is specifically authorized to issue ordinance summonses for violations, as well as notices and appropriate regulatory orders as part of his official duties.

103.2 Appointment. As provided in South Carolina law, the code official shall be appointed by the City, acting through the City Manager, and shall be required to comply with the standards governing the conduct of all City employees; the code official is an "at will" employee as are all

other City employees, but if the code official is terminated and believes that such termination is in retaliation for a job-related decision or activity, then the code official must follow the City's grievance procedure and take all necessary steps to seek an administrative remedy. Any failure to implement the City's grievance procedure shall be deemed a waiver of the code official's right to object to his termination and the code official shall be barred from instituting litigation to contest his discharge. In pursuing his administrative remedies, the code official shall be given a full opportunity to be heard on specific and relevant issues raised by him or relied on by the City Manager or the Fire Chief in making a termination decision.

103.3 Deputies. In accordance with the prescribed procedures of the City and with the written concurrence of the City Manager, the code official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees.

103.4 Liability. The code official, officer or employee charged with the enforcement of this code, while acting in an official capacity for the City, is subject to the limitations on personal and official liability set forth in the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq. (the "S.C. Tort Claims Act").

In the event any suit is instituted against any code official, officer or employee (hereafter "City Employee") because of an act performed, or alleged to have been performed by that City Employee in the lawful discharge of such person's official duties, then under the provisions of this code and under the provisions of the S.C. Tort Claims Act and other applicable law, such City Employee shall be defended by the

insurance carrier for the City, but if insurance coverage and/or insurance defense is denied, and the City determines that a legal defense is warranted for the City Employee under the facts and circumstances alleged, and if the City has been given prompt, timely notice of the occurrence leading to the claim, and of the assertion of any claim against the City Employee or the City, and has been given prompt notice of the service of any suit papers on the City Employee, all of which are duties imposed on the City Employee to act in good faith, then legal representation may be provided by the City until any insurance coverage issue is resolved or until the final termination of the proceedings. Depending on the nature of the allegations, or the facts and circumstances discovered and developed in the course of the litigation, the City may accept the financial responsibility of providing a defense, but if the City's investigation reveals that the City Employee did not act within the scope and authority of his official duties in the matter from which the litigation arose, or if he failed to cooperate with the City in notifying it of the claim or in its investigation of the claim, then the City shall be under no duty or obligation whatsoever to provide a legal defense to the City Employee, and shall not be liable for any adverse outcome of such suit, if the City has not been directly made a party to the suit. Any exemption from personal responsibility for the official actions of a City Employee in enforcing this code arises by reason of the nature of his official duties, and from the S.C. Tort Claims Act and any federal laws governing such matters. This code does not expand any exemptions from personal liability provided by South Carolina or federal law.

Furthermore, this code shall not be construed to relieve from or lessen the responsibility of any non-City agent,

employee, builder, contractor, agent or employee of any builder or contractor, or any person owning, operating or controlling any building, structure or premises, for any damages to persons or property caused by defects therein or from other violations of this code, nor shall the code enforcement officer, his deputy or agent, or the City be held as assuming any liability by reason of the inspections authorized by this code or any permits or certificates issued under this code, or by reason of the absence of any such inspections.

103.5 Fees. The fees for activities and services performed by the City in carrying out its responsibilities under this code shall be as indicated in a schedule adopted by the City from time to time, either by ordinance or in the annual budget ordinance.

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The code official shall enforce the provisions of this code. If requested by the City Manager or by the code official, commissioned officers from the City's police department or other law enforcement agencies may directly enforce this code or assist the code official in enforcing it.

104.2 Rule-making authority. The code official shall have authority as necessary in the interest of public health, safety and general welfare, to recommend to the City Manager and to City Council the adoption and promulgation of rules and procedures, including necessary amendments to this code; to interpret and implement the provisions of this code and of any duly adopted regulations, rules or procedures; to secure the intent thereof; and to designate requirements applicable because of local

climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

104.3 Inspection. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the written approval of the City Manager and the availability of sufficient funds in the City budget for such matters.

104.4 Right of entry. The code official is authorized to request entry into any structure or premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. By the terms of the City's business license ordinance, holders of City business licenses are deemed to have consented to a search. If a structure appears to be unoccupied, and is disconnected from City utility services or electric power, then entry is authorized for the purpose of inspection of the premises for compliance with this code. However, if the premises appear to be occupied, or if there also appears to be an IPMC violation visible to the code official from a place where he has a right to be, the code official may request entrance from the owner, the owner's authorized agent or other person in charge of the property. If entry is refused or otherwise cannot be obtained, the code official is authorized to pursue recourse as provided by law, including seeking assistance of the police department or City

Attorney in obtaining an administrative search warrant pursuant to Sec. 26-37 of the City's Code of Ordinances or a court order permitting inspection. If a violation is open, obvious, and poses an immediate threat to human or animal health and/or safety, the code official has the right to demand entrance, or to make entrance if no one is present or in charge of the premises, and may seek the assistance of the police department, fire department, health department and/or public works department, as necessary, to accomplish this purpose. Within 48 hours, the code official will file an incident report with City Manager, and keep a copy in the records of his office, detailing the events and facts justifying the actions taken by him.

104.5 Identification. The code official shall wear a City uniform with proper insignia, carry proper identification and a badge of his office when carrying out his duties, and shall present them for inspection when requesting entrance into structures or premises for purposes of inspection in the performance of those duties under this code.

104.6 Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

104.7 Department records. The code official shall keep the City's official records of all business and activities of the department specified in the provisions of this code. Such records should be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations or City record-retention policies. This subsection does not create any private right of action in any individual if a particular record is not maintained for any particular period of time,

or if any particular information is not recorded.

SECTION 105 APPROVAL

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall determine and articulate in writing:

1. the special individual reason that makes application of the strict letter of this code impractical; and
2. the extent to which the modification is in compliance with the intent and purpose of this code; and
3. that the modification is consistent with the intent of prior modifications, if any; and
4. that such modification does not materially lessen health, life and fire safety requirements; and
5. the details of action granting modifications.

The written statement shall be filed with the City Clerk and a copy shall be provided to the City Manager.

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved

where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety, or has been recognized as such by experts in the area. Where the alternative material, design or method of construction is not approved, the code official shall respond in writing, stating the reason the alternative was not approved.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require reasonable tests to be made as evidence of compliance at no expense to the jurisdiction, or to rely on the results of tests of similar materials or methods made in other jurisdictions or by recognized testing agencies.

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

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

105.4 Material and equipment reuse. To encourage recycling and the conservation of resources, materials, equipment and devices may be reused when such elements are in good repair or have been reconditioned and

tested when necessary, placed in good and proper working condition and approved. Wood boards, composite materials, hardware and other elements, which are not load-bearing, generally would not be required to meet the same tests as re-used load-bearing timbers, posts and similar elements.

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

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person or other legal entity to do any act or maintain any structure or keep any premises which is in conflict with or in violation of any of the provisions of this code.

106.2 Notice of violation. A preliminary notice of violation, a notice of violation or order shall be issued by the code official in accordance with Section 107.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 may be charged with a misdemeanor or with a civil infraction, depending on the severity of the conduct and whether the property has been the subject of prior complaints, whether formal or informal, and the degree to which the property owner or other responsible person has cooperated with the City in resolving the issues presented. Persons charged are entitled to a trial in municipal court, and if found guilty of a misdemeanor or of a breach of the law constituting a civil infraction, punishment to the extent provided by law may be imposed by the judge. If the notice of violation is not

complied with, the code official shall make formal charge as indicated above, or may ask the City Attorney to institute the appropriate proceeding at law or in equity in the Court of Common Pleas to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of any order or direction made pursuant thereto. Any action taken by the City resulting in the imposition of a monetary penalty or the incurrence of demolition and/or other abatement costs by the City shall be recovered as restitution to the extent awarded by the court by charging any such unpaid monetary penalties or civil penalties as liens against the real property upon which the structure or premises is located and such sums shall be recovered by adding such costs as a lien on the real property tax bills next issued by the City, or its agent, upon such real property, and collected in the same manner and at the same time as ad valorem property taxes are collected. In addition, if the lien on the offender's real property tax bill is not collectible for any reason, the owner or owners of the real property, and their successors in interest, are responsible for such lien and may be sued in a court of competent jurisdiction in Darlington County, South Carolina, to recover the amount of the lien, plus all court costs and accrued pre-judgment interest, as well as the City's attorney's fees incurred in the prosecution of the case, all of which are recoverable jointly and severally against the owner or owners of record of the property on the date the lien is imposed, and their successors in interest, and the lien runs with the property.

106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, may first be issued a

regulatory order to cease and desist the violation, or, in the discretion of the code official, may be prosecuted for such violation within the limits of the law. Except as otherwise provided by South Carolina law, each day that a violation continues after due notice has been given shall be deemed a separate offense.

106.5 Abatement of violation. The imposition of the penalties herein shall not preclude the City Attorney from instituting appropriate action, including, but not limited to, requesting intervention by the City's police department to restrain, correct or abate a continuing violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 107 NOTICES AND ORDERS

107.1 Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred notice shall be provided.

107.1.1 Preliminary Notice. Prior to the delivery of a formal notice, a preliminary notice of violation may be given.

107.1.2 Formal Notice. If the problem cannot be resolved with a preliminary notice or informally, the code official may give a formal notice of compliance or correction in the manner prescribed in Sections 107.2.2 and 107.3 to the property owner and to any other person identified as a being responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with the laws of the

State of South Carolina. In the sole discretion of the code official, no preliminary or informal notice is required prior to the initiation and delivery of a formal notice.

107.2 Form. Notices shall be presented in the following forms:

107.2.1 Preliminary Notice. A preliminary notice prescribed in Section 107.1.1 shall be in accordance with all of the following:

1. Be in writing.
2. Describe the location of the violation, the date of the notice and the person served.
3. Identify the violation of the IPMC.
4. Inform the property owner the date by which to fix the violation.
5. Provide contact information to dispute the violation.

107.2.2 Formal Notice. Formal notice prescribed in Section 107.1.2 shall be in accordance with all of the following:

1. Be in writing.
2. Identify the property owner based on the City's tax or other records, and identify, to the extent possible, any other persons who may be lawfully responsible for the premises, such as a tenant, renter, lessee or permissive user.
3. Include a description of the real property sufficient for identification,

which may include, but is not limited to, street address, tax map number, plat reference or a deed description.

4. Include a statement of the violation or violations, with specific reference to the section of this code which is being violated, and state why the notice is being issued.

5. Include a description of necessary correction or compliance, specifying exactly what action is required to bring the property into conformance with this code (including costs and fees associated therewith), specifying any building or other permits that must first be obtained, and stating a reasonable time to make the repairs and improvements required to bring the dwelling unit, other structure or premises into compliance with the provisions of this code.

6. Inform the property owner of:

(a) the right to an informal hearing or discussion with a hearing officer before the order is implemented;

(b) his right to appeal any adverse decision of the hearing officer; and

(c) the time limits and procedure for filing an appeal.

Informal hearings or discussions with the hearing officer shall be scheduled within 7 days of informing the violator of their violation. Neither party shall be represented by counsel. The code officer has the burden of proof of a violation. For purposes herein, the "hearing

officer” shall be the code official or his designee.

7. Include a statement of the right of the City to file a lien in accordance with Section 106.3 “Prosecution of Violation” for unpaid monetary penalties and costs of abatement.

8. In the alternative, notice of prosecution in the City’s municipal court may be given by service of a Municipal Ordinance Summons (as provided by Sec. 1-13 of the City’s Code of Ordinances) in a proper case, or by institution of the Courtesy Summons (pursuant to Sec. 26-36 of the City’s Code of Ordinances).

107.3 Method of service. To the extent legally permissible, a preliminary notice under 107.2.1 shall be served in any manner determined by the code official. Formal notice under 107.2.2, except as described in Subparagraph 8 above (which shall be served personally on a defendant under South Carolina law), shall be deemed to be properly served:

1. If a copy of the notice is delivered personally to each property owner of record or of whom the code official has actual knowledge, and to any other person who is found on the property and/or who appears to have a right as tenant, lessee, renter or permissive user to be on or in control of the property;

2. If a copy of the notice is sent by certified or first-class mail addressed to the last known property owner or owners at the best address available to the City for such person, with a

return receipt requested included therewith; or

3. If the letter and notice submitted under Section 107.3(2) above was not delivered, or if the return receipt is not properly signed, a copy of the notice shall be posted or door-tagged in a conspicuous place in or about the front door of the structure, and the owner of such affected property shall be deemed to have been duly notified of the notice on the seventh day after the posting thereof.

107.4 Penalties. Penalties for noncompliance with orders and notices, or for violations prosecuted in the City’s municipal court, shall be as set forth in Section 106.4.

107.5 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order, or upon whom a notice of violation has been served, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner’s authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation, after any and all rights to appeal have been exhausted.

**SECTION 108
UNSAFE STRUCTURES AND
EQUIPMENT**

108.1 General. When a structure or equipment, including a mobile home or travel trailer, whether with or without wheels, is found by the code official to be unsafe (structure or equipment), is a structure unfit for human habitation, or is an unlawful structure or is a dangerous structure or premises, such structure or equipment may be condemned and boarded or demolished and removed pursuant to the provisions of this code or pursuant to other applicable provisions of the City's Code of Ordinances or of State law.

108.1.1 Unsafe structures. An "unsafe structure" is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is imminently foreseeable unless repairs are immediately undertaken.

108.1.2 Unsafe equipment. "Unsafe equipment" includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure. It also includes unsafe mobile equipment units used for human habitation, including mobile homes, travel trailers,

shipping containers, old buses, old truck bodies and the like, whether currently on wheels or not.

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

108.1.4 Unlawful structure. An "unlawful structure" is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law. The term "unlawful structure" includes "unsafe equipment" used for human occupancy in violation of this code.

108.1.5 Dangerous Structure or premises. A "dangerous structure" or "dangerous premises" is any structure or premises that has any or all of the conditions or defects described below:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the City as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn

loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

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

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

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for

committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

108.2 Vacant structures. If the structure is vacant and unfit for human habitation, and is

not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or the owner's authorized agent to close up the premises or to request a hearing with the hearing officer within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real property upon which the structure is located and shall be a lien upon such real property and may be collected by any legal resource.

108.2.1 Disconnect Utility Services.

The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval or is otherwise unauthorized. The code official shall notify the serving utility and, whenever possible, the owner or owner's authorized agent and occupant of the building, structure or premises of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner, owner's authorized agent or occupant shall be notified in writing as soon as practical thereafter.

108.2.2 Enforcement and Remedies for Violation.

A structure that is boarded or vacant in violation of this section is a public nuisance. In addition to the provisions in this section the City

is authorized to use the remedies set forth in Section 106 of this code, State law and the City's Code of Ordinances. The remedies, procedures and penalties provided by this section are cumulative to each other and to any others available under state law or other city ordinances.

108.2.3 Owner Responsibilities. No person shall allow a structure to stand vacant for more than thirty (30) days unless the owner establishes by substantial evidence, to the reasonable satisfaction of the code official, one or more of the following conditions apply:

108.2.3.1 Permits. The structure is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.

108.2.3.2 Sale or Lease. The structure meets all applicable codes, does not contribute to blight, is ready for occupancy and is actively being offered for sale, lease or rent.

108.2.3.3 Maintained. The structure does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the structure so that it does not contribute to blight. Active maintenance and monitoring shall include:

1. Maintenance of landscaping and plant material in good condition;
2. Maintenance of the exterior of the structure including but not limited to paint and finishes in good condition;
3. Prompt and regular removal of all exterior trash, debris and graffiti;

4. Maintenance of the structure in continuing compliance with all applicable codes and regulations; and/or

5. Prevention of criminal activity on the premises including but not limited to use and sale of controlled substances, prostitution, criminal street gang activity, loitering, or trespassing.

108.2.3.4 Natural Disasters. If the structure is vacant due to fire, flood, earthquake, or other form of natural disaster and the owner is actively pursuing assistance for demolition, rehabilitation, or restoration of the structure and/or premises from local, state or federal assistance programs or from insurance agencies.

108.2.4 Standards for Boarding a Vacant Structure. The boarding of a vacant structure shall be according to the specifications provided as Appendix A to this code.

108.2.5 Rehabilitation of Boarded Structure. The owner of any boarded structure, whether boarded by voluntary action of the owner or the owner's authorized agent or as a result of enforcement activity by the City, shall cause the boarded structure to be rehabilitated for occupancy within six (6) months after the building is boarded and shall comply with Section 108.2.3. On or before the end of the six month term, the code official may grant an extension, in writing, for rehabilitation upon a showing that substantive rehabilitation is in progress and ongoing. Any such extension shall be initially granted for a period of not exceeding 30 days and subject to further 30 day extensions in the discretion of the code official.

108.2.6 Continuing Nuisance. When the owner of a boarded or vacant structure fails to maintain the property in accordance with this section or when repeated violations of this section occur for the same property, the code official may seek remedies as provided by this code, local ordinances or state law including, but not limited to, demolition and removal of the structure.

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

108.3.1 Trespass Notice. The code official may also require the owner of the property to post "No Trespassing" signs on the property and sign a letter with the City's policy department authorizing the department to enforce no trespassing on the premises.

108.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions or to request a hearing within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" (or similar verbiage) and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard. To the extent a code official is acting in his official capacity under this code, the provisions of Sec. 58-33 of the City's Code of Ordinances shall not be applicable.

108.4.1 Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated or the hearing officer or appeals board (see Section 111 herein) overturn the determination of the code official. Any person who defaces or removes a condemnation placard without the approval of the code official shall be guilty of a misdemeanor and subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official, unless a hearing has been requested, except in cases where imminent danger exists, as defined in Section 109.1. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

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

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure

has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure, except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same. In certain cases, the code official may seek the assistance of the City police department, the fire department, the public works department, and any other department of the City in enforcing his orders to vacate the premises.

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

109.3 Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or request the City Manager or Police Chief to close sidewalks, streets, public ways and places adjacent to unsafe structures, and

prohibit the same from being utilized, until the situation is stabilized and the danger abated.

109.4 Emergency repairs. For the purposes of this section, after consulting with and getting the approval of the City Manager, the code official may employ the necessary labor and materials to perform the required emergency repairs as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency repairs shall be paid by the City, if prior approval has been given by the City Manager or his duly authorized agent. The City Attorney or other counsel retained by the City may institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. Any persons ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

110.1 General. If a structure is not a historic building, as governed by the provisions of Section 102.6 of this code, the code official may order the owner, or the owner's authorized agent, of any other premises upon which is located any structure, which in the code official's judgment is so old, 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 demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner or the owner's agent to demolish and remove such structure.

110.2 Notices and orders. All notices and orders shall comply with Section 107.

110.3 Failure to comply. If the owner, or the owner's authorized agent, of a premises (as provided in Section 110.1) fails to comply with a demolition order within the time prescribed, after failing to timely request a hearing or after requesting a hearing, and if not successful in having the code officer's demolition order modified or abated, and thereafter fails to exhaust his right to appeal, the code official shall thereafter cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real property upon which the structure is located and shall be a lien upon such real property, and, if unpaid, shall be collected in the same manner and at the same time as the City's real property taxes, including delinquent city property taxes, or using any other legal recourse available to the City.

110.4 Salvage materials. When any structure has been ordered demolished and removed, the City Manager or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. 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, to the person who is entitled thereto, subject to any order of a court. If there is no surplus remaining to be turned over, the report shall so state.

SECTION 111 APPEALS PROCEDURE

111.1 Appeals Process. Any person affected by a decision of the code official or a notice issued under the provisions of this code shall have the right to appeal to the appeals board in accordance with the provisions of Chapter 10 “Buildings and Building Regulations”, Article IV “Board of Appeals Regarding Technical Code Enforcement” of the City’s Code of Ordinances.

SECTION 112 STOP WORK ORDER

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

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

112.3 Emergencies. Where an emergency exists, the code official shall not be required

to give a written notice prior to stopping the work.

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$100 or more than \$500 for each offense.

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 302 EXTERIOR PROPERTY AREAS

Section 302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plant and vegetation, other than trees or shrubs provided. While this definition includes natural and planted weeds or plant growth, this term shall not include cultivated flowers or gardens.

Upon failure of the owner or agent having charge of the property to cut and destroy weeds are service of a notice violation, they shall be subject to prosecution in accordance with Section 106.3 of this code and/or as otherwise provided by State law or the City’s Code of Ordinances. Upon failure to comply with the notice of violation, any duly authorized employee of the City or a contractor hired by the City shall be authorized to enter upon the property in violation and cut and destroy weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. An owner is permitted one notice per calendar year with an opportunity to abate the weed violation within the time parameters set forth in the notice without further penalty. Each subsequent violation

within the calendar year will be subject to an automatic court summons and fees associated therewith.

SECTION 304 EXTERIOR PROPERTY AREAS

Section 304.14 Insect Screens. During the period from January 1 to December 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas 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 repellent fans are employed.

CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 602 HEATING FACILITIES

Section 602.2 Residential Occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Said heating facilities shall be permanent in nature and shall be installed in compliance with the provisions of the ICC International

Residential Code and ICC International Mechanical Code. All heating facilities shall be maintained in a safe working condition and shall be capable of performing the intended function as outlined in Section 602. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to May 1 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

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

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

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