

## ORDINANCE 4459

**AN ORDINANCE AMENDING THE CITY OF HARTSVILLE CODE BY AMENDING CHAPTER 54 “NUISANCES”, BY THE ADDITION OF CHAPTER 54 “NUISANCES” ARTICLE VI “NUISANCES AFFECTING PUBLIC PEACE”, BY THE ADDITION OF CHAPTER 54 “NUISANCES” ARTICLE VII “NUISANCES AFFECTING PUBLIC ORDER”, BY AMENDING AND RESTATING CHAPTER 58 “OFFENSES AND MISCELLANEOUS PROVISIONS” ARTICLE II “OFFENSES AGAINST PROPERTY” AND BY AMENDING CHAPTER 10 “BUILDING AND BUILDING REGULATIONS” ARTICLE II “TECHNICAL CODES” SECTION 10-38 “INTERNATIONAL PROPERTY MAINTENANCE CODE” AND BY AMENDING THE CITY OF HARTSVILLE PROVISIONS TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND THE ASSOCIATED MASTER FEE SCHEDULE SECTIONS.**

**WHEREAS**, the City of Hartsville, South Carolina (the “City”) is a municipal corporation of the State of South Carolina, located in Darlington County, South Carolina, and as such possesses all general powers granted to municipal corporations; and,

**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; and,

**WHEREAS**, Section 5-7-80 of the Code of Laws of South Carolina, 1976, as amended, 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 which constitute a public nuisance; and,

**WHEREAS**, Section 5-7-80 further provides the City may provide by ordinance for notification to owners of real property of conditions needing correction and requiring the correction of the conditions; 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 International Property Maintenance Code (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 and remediate public nuisances and levy fines for violations which shall be included on the Master Fee Schedule.

**NOW, THEREFORE BE IT ORDAINED**, by the Mayor and Council of the City of Hartsville that the adopted revisions to the provisions of the International Property Maintenance Code on file in the office of the City Clerk are hereby amended as set forth in Exhibit A hereto and such amendments and revisions to the IPMC shall be available for review in the office of the City Clerk.

**NOW, THEREFORE BE IT FURTHER ORDAINED**, by the Mayor and Council of the City of Hartsville that the following master fee/rate schedule revisions are hereby approved and adopted by reference and on file in the office of the City Clerk.

**NOW, THEREFORE BE IT FURTHER ORDAINED**, by the Mayor and Council of the City of Hartsville that the Hartsville City Code is hereby amended by amending Chapter 54 “Nuisances” by the addition of Chapter 54 “Nuisances” Article VI “Nuisances Affecting Public Peace”, by the addition of Chapter 54 “Nuisances” Article VII “Nuisances Affecting Public Order”, by amending and restating Chapter 58 “Offenses And Miscellaneous Provisions” Article II “Offenses Against Property” and by amending Chapter 10 “Building And Building Regulations” Article II “Technical Codes” Section 10-38 “International Property Maintenance Code” to read as follows:

Chapter 54. Nuisances.  
Article I. In General.

Sec. 54-1. Certain acts declared nuisances; unlawful conduct.

- (a) Any act of any person whereby the health or life of any individual may be endangered, injured, or impaired; any disease which may, directly or indirectly, be caused by such act; or because of such act any property may be endangered, injured, or damaged, is declared to be a nuisance.
- (b) It shall be unlawful for any owner, occupant, or agent of a lot or premises, whether occupied or vacant, within the city, to permit such lot or premises to become unsanitary by allowing any offensive matter or thing upon such lot or premises which may be detrimental to health; to permit any trash, rubbish, waste, refuse, manure, straw, hay, or thing to accumulate and remain upon such premises; or to throw, deposit, or cause to be thrown or deposited upon any vacant lot or premises such thing which may endanger, injure, or damage another's health or property.
- (c) No person or entity shall create any nuisance or public nuisance in the city, and no person shall by action or inaction allow or permit a nuisance or public nuisance to occur or continue on any property which he owns, manages, leases, controls, possesses or occupies.

Sec. 54-2. Power of council to declare and abate.

It shall be lawful at any time for the council to declare certain things, the existence of which may be deemed unhealthy or harmful to the citizens of the city, as nuisances, whether embraced and defined in any ordinance or not. Such nuisances may be abated by the council.

Sec. 54-3. Failure to abate; abatement by city.

Any person who refuses or neglects to abate a nuisance or any matter or thing which endangers the public health of the city, after having been directed to do so by the appropriate authority, shall be guilty of a misdemeanor. For such refusal or neglect, the city shall have the authority to have such nuisance removed or abated. All expenses incurred in abating or removing any nuisance shall be recoverable from the owner or occupant of the premises from which the nuisance shall be removed or abated or from any person causing or maintaining such nuisance in the same manner as debts of the same amount are recoverable.

Sec. 54-4. Criminal violations for public nuisance.

Enforcement by issuance of criminal process for any violation of the public nuisance provisions of the City of Hartsville Code shall be made only by a law enforcement officer of the city.

Secs. 54-4 5—54-30. Reserved.

ARTICLE II. Noise

Sec. 54-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Background noise* means noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable.

*City manager* means the duly appointed city manager.

*Construction* means the assembly, erection, substantial repair, alteration, demolition, or site preparation for or of public or private rights-of-way, buildings, or other structures, utilities, or property.

*Daytime hours* means the hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours between 9:00 a.m. and 10:00 p.m. on Sunday.

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Excessive noise* means any sound, the intensity of which exceeds the standards set forth in section 54-36.

*Impulsive noise* means sound of short duration, usually less than a second, with an abrupt onset and rapid decay.

*Intrusion alarm* means a device with an audible signal which, when activated, indicates intrusion by an unauthorized person.

*Loud, raucous, and disturbing noise* means any sound which because of its volume, level, duration, and character annoys, disturbs, injures, or endangers the comfort, health, peace, safety, or welfare of reasonable persons of ordinary sensibilities within the city limits.

*Motor vehicle* means a vehicle as defined by state law.

*Nighttime hours* means the hours between 10:00 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

*Noise level* means a frequency weighted sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dBA.

*Premises* means any building, structure, land, or portion thereof, including all appurtenances, owned or controlled by a person.

*Property maintenance equipment* means all engine- or motor-powered tools and equipment used occasionally in the repair and upkeep of exterior property and including but not limited to lawn mowers, riding tractors, wood chippers, power saws, and leaf blowers.

*Public emergency sound signal* means a device, either stationary or mobile, producing audible signals associated with a set of circumstances involving actual or imminent danger to persons or damage to property which demands immediate action.

*Public facility maintenance* means all activity related to the clearing, cleaning, repairing, and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly owned property.

*Recreational vehicle* means any internal combustion, engine-powered, nonregistered vehicle which is being used for recreational purposes.

*Sound* means a transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including but not limited to an auditory response, when impinging on the ear.

#### Sec. 54-32. Declaration of policy.

Excessive noise must be controlled by the city to protect, preserve, and promote the public health, safety, and welfare. The council recognizes the fact that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety, or welfare.

#### Sec. 54-33. Exclusions from article.

This article shall not apply to noise emitted by or related to the following:

- (1) Natural phenomena.
- (2) The unamplified sound made by any wild animal.
- (3) A bell or chime from any building clock, school, or church.
- (4) A public emergency sound signal.
- (5) Farming equipment or farming activity.

- (6) An emergency.
- (7) Snow removal.

Sec. 54-34. Exemptions from article.

The following shall be exempt from this article, subject to the special conditions noted:

- (1) Noise created by the operation of property maintenance equipment.
- (2) Noise generated by any construction equipment, provided that a permit for such has been obtained from local authorities.
- (3) Noise created by any recreational activities which are sanctioned by the city, including but not limited to parades, sporting events, concerts, and fireworks displays.
- (4) Noise created by blasting, provided that a permit for such blasting has been obtained from local authorities.
- (5) Noise created by refuse and solid waste collection.
- (6) Noise created by fire or intrusion alarm.
- (7) Noise created by public facility maintenance.
- (8) Sounds emanating from any authorized emergency vehicle responding to an emergency or acting at the time of an emergency.

Sec. 54-35. General prohibitions on loud, raucous, and disturbing noise.

It shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue, or cause to be made or continued any loud, raucous, or disturbing noise (as defined in sec. 54-31). The term "loud, raucous, and disturbing noise" shall be limited to noises heard from any public street, public park, public building or grounds while in use, school building or grounds while in use, church or grounds while in use, hospital or grounds while in use, parking lot open to members of the public as invitees or licensees, or occupied residential unit which is not the source of the noise or upon the grounds thereof.

Sec. 54-36. Prohibited noise activities.

The following acts are hereby declared to be public nuisances in violation of the above section. The acts enumerated in this section shall not be deemed to be exclusive.

- (1) The use or operation of any mechanical or electrical device, apparatus, or instrument to amplify, intensify, produce, or reproduce a human voice or any other sound when the sound from such activity is clearly audible more than 100 feet from the device, apparatus, or instrument.
- (2) The playing or operation of any radio, cassette tape player, compact disc player, or any other sound producing device, apparatus, or instrument when the speaker volume is elevated to such an extent that the sound is clearly audible more than 100 feet from the device. Where the provisions of this subsection apply to any device, apparatus, or instrument installed or located in a vehicle, they are intended to apply, regardless of whether the vehicle is traveling upon the streets of the city, stopped in traffic, or parked on public or private property.
- (3) The sounding of a horn or any other signal device, except as a danger signal, so as to create an unreasonably loud or harsh sound, or the sounding of such device for an unreasonable period of time. The provisions of this subsection are not intended to apply to sounds emanating from any authorized emergency vehicle responding to an emergency situation.
- (4) The owning, keeping, or harboring of any animal which frequently, or for continued duration, howls, barks, meows, squawks, or makes other sounds which disturb the reasonable comfort and peace of any person in the vicinity by creating a loud, raucous, and disturbing noise.

- (5) The use of any automobile, motorcycle, or other vehicle so out of repair, so overloaded, or altered to amplify sound which creates a loud, raucous, and disturbing noise. All motor vehicles must operate within the standards set forth by State law.
- (6) The creation of any other sound defined as a loud, raucous, or disturbing noise.

Sec. 54-37. Penalties for violation of article.

Any person in violation of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be ~~fin~~ed in an amount not to exceed \$200.00 included in the City's Master Fee Schedule which is on file in the City Clerk's Office. In lieu of arrest and issuance of a summons, a police officer may serve upon a violator an infraction notice, which shall be known as a noise ticket. Payment of the fine prescribed by such noise ticket within the time limit specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited.

Sec. 54-38. Variances.

- (a) Any person residing or doing business in the city may apply to the city manager for a variance from one or more of the sections of this article which is more stringent than the state department of environmental protection's regulations for the control of noise, provided that the applicant supplies all of the following information to the city manager at least 20 days prior to the start of such activity:
  - (1) The location and nature of activity;
  - (2) The time period and hours of operation of the activity;
  - (3) The nature and intensity of the noise that will be generated; and
  - (4) Any other information required by the city manager.
- (b) No variance from this article shall be issued unless it has been demonstrated that:
  - (1) The proposed activity will not violate any provisions of the state department of environmental protection regulations;
  - (2) The noise levels generated by the proposed activity will not constitute a danger to the public health; and
  - (3) Compliance with this article constitutes an unreasonable hardship on the applicant.
- (c) The application for variance shall be reviewed and either approved or rejected at least five days prior to the proposed start of the activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.
- (d) Failure to rule on the application in the designated time shall constitute approval of the variance.

Secs. 54-39—54-65. Reserved.

ARTICLE III. General Property Grounds Maintenance

Sec. 54-66. Failure to control and maintain growth on property grounds prohibited and declared a public nuisance; vegetation standards.

- (a) No person shall permit the growth of vegetation, both natural or planted, including but not limited to trees, limbs, shrubbery, hedges, leaves, needles, and flowers, to get out of control, accumulate, or become unkempt, unsightly, or unhealthy on any lot or property they own within the city. (See section 10-38(d) requiring property owners to keep ground cover, grass, plant growth and weeds no higher than 12 inches pursuant to the International Property Maintenance Code.)

- (b) Public nuisance declaration. A deficiency or violation of this article may be declared a public nuisance. The city code official and city manager are jointly authorized to declare a property maintenance code violation a public nuisance.
- (c) To avoid being determined a public nuisance by the city code enforcement officer, the following standards shall be maintained for all lots and properties within the city:
  - (1) Trees, shrubbery and hedges shall be trimmed of dead limbs and shall not be permitted to overgrow fence lines or property lines.
  - (2) Leaves, flowers, and needles of deciduous trees and shrubbery shall be collected and properly disposed of by property owners in a timely manner.
  - (3) A pollinator habitat, also known as a natural landscape, is intentionally maintained by
    - (a) planting of native plants that benefit pollinating insects, provide habitat suitable for desirable animals and plants, improve soil aeration, reduce stormwater runoff, and create visually attractive landscapes.
    - (b) creating and maintaining a setback of no less than four feet around the outer perimeter of the lot or property claiming the pollinator habitat exemption. This setback will be regularly maintained to adhere to subparagraphs A-C of this section at all times.
    - (c) Installing and maintaining prominently visible signage describing the area as a managed pollinator habitat or maintained natural landscape established for the purposes described in Article III, Sec 54-66 (c)(3)(a), obtainable from the City, within the setback at all property lines adjoining public properties.
    - (d) removing saplings, vines, or other tall, woody plants that exceed three feet in height.
    - (e) ensuring that a property or lot containing a designated natural area does not violate any provisions established in Article IV, Sec 54-82.
    - (f) complying with instructions of duly appointed representatives of the City who may issue determinations and required remedies if an area for which the owner is claiming a pollinator habitat exemption is found to be in violation of this or any other sections of the Code.

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 section 54-66, the violation, including notice, service, orders and appeals, shall be enforced under the provisions of International Property Maintenance Code, as adopted by section 10-38 of this Code.

Sec. 54-68. Power to declare nuisances not impaired.

Nothing in this chapter shall be construed to impair or limit in any way the city's power to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Secs. 54-69—54-~~80~~ 79. Reserved.

ARTICLE IV. Accumulation And Distribution Of Unsolicited, Unclaimed Or Undesirable Materials

Sec. 54-80. Delivery of material containing commercial advertisements.

It shall be unlawful for any person to distribute or cause to be distributed any free printed or written handbill, circular, or other written material containing any commercial advertisement in or upon any street, sidewalk, store or residence or upon the lot upon which such store or residence is located or in any other public place in the city, by delivering the material to passersby, or placing or leaving the material in or upon automobiles or other vehicles or by placing or leaving the material directly in or upon any such street, sidewalk, store, residence, lot or other public place.

Sec. 54-81. Definitions.

*Trash* means litter, waste material, rubbish and the like which is rendered useless and discarded by the owner.

*Unsolicited printed material* means newspapers, advertising and fliers which are thrown, cast, distributed, scattered or deposited on public or private property and which are provided at no cost to the consumer. Mail distributed by the United States of America, political posters and yard/rummage/book sale posters are not included in the definition.

Sec. 54-82. Prohibited conduct.

- (a) *Accumulation of junk and trash.* It shall be unlawful to allow to accumulate on any premises old fixtures, junk, litter, white goods, debris, bottles, cans, bricks, concrete, scrap lumber or other building debris, trash or any other material which tends to keep the premises wet, exclude the sun or catch and favor the accumulation of filth, or to be present in such quantities and in such condition as to materially increase the danger to property of others from forest or other fires. Such accumulations are hereby declared a nuisance.
- (b) *Vacant and abandoned structures.* The existence of any vacant dwelling, garage, or other outbuilding, other than agricultural, or livestock outbuildings, or endangered architectural or historical structures, as determined by the city's planning commission, within the city is hereby declared a nuisance.
- (c) *Blowing trash from vehicles.* Any person who transports trash or waste in the city shall be subject to S.C. Code of Laws 56-5-4110, as amended, which states that loads and covers shall be securely fastened to prevent trash or waste from escaping from the vehicle in which it is being transported. The violation of the said S.C. Code of Laws within the city is hereby declared a nuisance.
- (d) *Scattering materials.* Dumping, throwing or placing any rubbish, cans, boxes, debris, grass clippings or other waste materials on any private or public place in the city shall be subject to S.C. Code of Laws 16-11-700, as amended, which states that dumping litter on private or public property is prohibited. Dumping of waste materials at a publicly maintained or publicly licensed solid waste collection station or transfer station, in compliance with such regulations as the city manager or his designee may direct, shall not be deemed a violation of this article.
- (e) *Distributing unwanted materials and failing to retrieve unclaimed materials.* The continued throwing or passing of unsolicited printed material on any public or private place, within three days of positive notification by the occupant of the private property or by the city manager or his designee, respectively, that such distribution is not wanted, is hereby declared a nuisance. The failure to retrieve any unclaimed printed material, which has been distributed on any public or private place, within three days of its distribution, is hereby declared a nuisance.

Sec. 54-83. Persons or organizations responsible.

Any person or organization which is found to be responsible for creating, causing or facilitating the creation, distribution or accumulation of anything declared a nuisance herein shall be subject to the penalties set forth herein.

Sec. 54-84. Penalties for violation of article.

Any person or organization in violation of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be ~~fined in an amount not to exceed \$500.00~~ included in the City's Master Fee Schedule which is on file in the City Clerk's Office. In lieu of arrest and issuance of a summons, a police officer may serve upon a violator an infraction notice, which shall be known as a nuisance ticket. Payment of the fine prescribed by such nuisance ticket within the time limit specific thereon shall

constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited.

Sec. 54-85. Provisions of this article optional.

The city manager or his designee have the option of pursuing any of the provisions of this article in lieu of other provisions of the Code which may address the same conduct.

Secs. 54-86—54-90. Reserved.

ARTICLE V. Abandoned And Derelict Vehicles.

Sec. 54-91. Authority.

The city is empowered pursuant to S.C. Code 1976, § 56-5-41 (the "Abandoned Vehicles Act"), as amended, to regulate abandoned and derelict vehicles in order to protect the health and welfare of the citizens of the city.

Sec. 54-92. Definitions.

- (a) *Abandoned vehicle* means, for the purpose of this article, a vehicle required to be registered in this state if operated on a public highway in this state, that is left unattended on a highway or other public right-of-way for more than 48 hours, or a vehicle that has remained on private or other public property for a period of more than seven days without the consent of either the owner or person in control of the property upon which the vehicle is situated.
- (b) *Derelict vehicle* means a vehicle required to be registered in this state if operated on a public highway in this state:
  - (1) Whose certificate of registration has expired and the registered owner no longer resides at the address listed on the last certificate of registration on record with the South Carolina Department of Motor Vehicles (the "SC DMV") and cannot be located after a reasonable search; or
  - (2) Whose motor or other major parts have been removed so as either to render the vehicle inoperable or the operation of which would violate S.C. Code 1976, § 56-5-4410, as amended (the "South Carolina Code"); or
  - (3) Whose manufacturer's serial plates, motor vehicle identification numbers, license number plates, and any other means of identification have been removed making it impossible to locate or identify the registered and legal owner of the vehicle; or
  - (4) Whose registered owner of record disclaims ownership or releases his rights thereto; or
  - (5) Which is more than eight years old and does not bear a current registration; or
  - (6) A trailer, including semi-trailers, used as storage and (i) which does not bear a current license plate, (ii) is in a state of disrepair, or (iii) remains on private or public property in excess of 30 days.
- (c) *Enclosed structure* means a building, garage, or other structure erected per requirements of applicable building codes that shields interior items from the view of neighbors and passers-by. Carports, garages without operable doors, tarps, and canvas covers are not considered enclosed structures.
- (d) *Reasonable search* means (i) as to records related to vehicle ownership, a search of the records of the SC DMV for the last known address of the person listed on the last certificate of registration for such vehicle, and (ii) as to records related to property ownership, a search of the property records of Darlington County for the last known address of the person listed as the owner of such property.



- (e) *Vehicle* means any motorized transportation apparatus or any apparatus that can be attached to a motorized transportation apparatus, including, but not limited to, cars, trucks, boats, motorcycles, trailers and other attachments.

Sec. 54-93. Abandoned and derelict vehicles as hazard to health and welfare.

Abandoned and derelict vehicles constitute a hazard to the health and welfare of the citizens of the city in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens, and are hereby declared a nuisance. It is, therefore, in the public interest that any accumulation of abandoned and derelict vehicles within the city be eliminated and that the future abandonment of such vehicles be prevented.

Sec. 54-94. Abandonment and keeping of derelict vehicles prohibited.

- (a) it shall be unlawful for any person to abandon any vehicle on any highway, street, or other public right-of-way within the city for more than 48 hours, or abandon any vehicle on private or public property, other than a public right-of-way, for a period of more than seven days without the consent of the owner or person in control of the property upon which the vehicle is situated. The timeframes set forth herein shall begin to run at such time as a tag has been placed upon such vehicle pursuant to subsection 54-96(a) of this article.
- (b) It shall be unlawful for any person, including the owner or person in control of private property, to keep on such property any derelict vehicle. Upon the issuance of an ordinance summons after notice has been given pursuant to section 54-97 of this article, each day that the derelict vehicle is kept upon such private property shall constitute and be punishable as a separate offense.

Sec. 54-95. Exclusions.

- (a) This article does not apply to:
- (1) Licensed automobile dealers, and body and auto repair shops, or to vehicles in an enclosed building; or
  - (2) Boat trailers under 2,500 pounds, farm trailers, and other utility trailers which are privately owned and not for hire and that need not be licensed or registered.
- (b) The enforcement of section 54-96 of this article shall be held in abeyance for a period of 365 days where the person to whom an ordinance summons is issued is serving in active military deployment; provided that the city must be given notice and satisfactory evidence of such deployment prior to the date of any hearing on the matter.

Sec. 54-96. Removal of abandoned vehicles; penalty for abandoning a vehicle.

- (a) Where an abandoned vehicle has been left unattended on a public right-of-way, or other public or private property without the consent of the property owner or person in control of such property, the abandoned vehicle shall be tagged, removed, and disposed of in the manner set forth in Section 56-5-5850 of the Abandoned Vehicles Act, as it may be amended from time to time.
- (b) A person who abandons a vehicle in violation of subsection 54-94(b) of this article shall be guilty of a misdemeanor and, upon conviction, shall be ~~fined not more than \$500.00~~ included in the City's Master Fee Schedule which is on file in the City Clerk's Office, and shall pay all costs of having such abandoned vehicle removed, stored, sold, or otherwise disposed of. The fact that an abandoned vehicle found in violation of subsection 54-94(b) of this article is registered in the name of a person shall be prima facie proof that such person was in control of the vehicle at the time it was abandoned.

Sec. 54-97. Removal of derelict vehicles; penalty for keeping derelict vehicles.

- (a) Pursuant to Section 56-5-5880 of the Abandoned Vehicles Act, the code enforcement officer may enter onto private property for the purposes of enforcing this article and investigating any vehicle reasonably suspected to be an abandoned or derelict vehicle. When a vehicle is found by the code enforcement officer to be a derelict vehicle, the code enforcement officer shall provide notice to the following person or persons of a violation of this article, to the extent that they may be located after a reasonable search:
- (1) The registered owner of the derelict vehicle or the person listed as the registered owner on the last certificate of registration on record with the SC DMV, the notice of which shall be sent to the last known address of such person; and
  - (2) The owner of the property upon which the derelict vehicle is situated, the notice of which shall be sent to the address of such person used for property taxation purposes; and
  - (3) If the code enforcement officer is aware that such property is not under the control of the property owner, the person in control of the property upon which the derelict vehicle is located, which shall be mailed to the address of the property upon which the derelict vehicle is located.
- (b) The notice sent pursuant to this section shall state that the presence of the derelict vehicle is in violation of subsection 54-94(b) of this article; shall include a description of the derelict vehicle and a description of the property upon which the derelict vehicle is situated; and shall state that if the violation is not cured within 30 days of the date that such notice is sent the individual may be issued an ordinance summons and, upon conviction, shall be ~~fined not more than \$500.00 for each offense~~ included in the City's Master Fee Schedule which is on file in the City Clerk's Office, which shall be calculated as each day that such violation continues after the 30-day notice period has run. The notice shall also state that the violation may be cured by forfeiting the derelict vehicle to the city for sale or disposal pursuant to the provisions of section 54-98 of this article. The notice shall be personally delivered if the intended recipient resides within the city or may otherwise be mailed first class postage prepaid and shall be considered to have been issued upon personal delivery or upon mailing.
- (c) If the violation is not cured within 30 days of the issuance of notice, the code enforcement officer shall issue an ordinance summons as follows:
- (1) Upon the owner of the private property upon which the derelict vehicle is situated; or
  - (2) Upon the person in control of the private property upon which the derelict vehicle is located where the person in control of such property, or a member of such person's household or family, is the registered owner of such vehicle or is listed as the registered owner on the last certificate of registration for such vehicle on record with the SC DMV.

Sec. 54-98. Forfeiture of derelict vehicles.

Any person may forfeit a derelict vehicle to the city in the following instances:

- (a) Where the property owner or the person in control of the property upon which the derelict vehicle is located is the registered owner or is listed as the registered owner on the last certificate of registration for such vehicle on record with the SC DMV, the person may forfeit the derelict vehicle to the city by surrendering the title certificate for the vehicle to the city or to the city's representative;
- (b) Where, upon investigation it is determined that the vehicle is in fact an abandoned vehicle such that it has remained on private property for a period of more than seven days without the consent of the property owner or, if such property is not under the control of the property owner, the person in control of the property upon which the vehicle is located, and the property owner or person in control of the property consents to the forfeiture, the

vehicle shall be treated as an abandoned vehicle pursuant to section 54-96 of this article and removed pursuant to the provisions of that section.

Sec. 54.99. Contracting for removal of abandoned or derelict vehicles.

The city may contract with any qualified private contractor for the necessary collection, storage, transportation or any other services necessary to prepare abandoned or derelict vehicles for sale, recycling, or other methods of disposal. Such private contractor shall bear the sole responsibility for compliance with S.C. Code §§ 29-15-10, 56-5-5636, or 56-5-5945, or any other provision of state law related to the sale, recycling, or disposal of abandoned or derelict vehicles as may now or in the future exist.

Article VI. Nuisances Affecting Public Peace.

Sec. 54-100. Public Nuisances Affecting Public Peace.

- (a) Public nuisances affecting the public peace shall include, but not be limited to, the following structures or premises when the person or entity owning, managing, controlling, occupying, possessing or maintaining such structure or premises generates, enables or contributes to the occurrence of the unlawful behavior therein or thereon by policy, practice, conduct, lack of control or supervision, or absence or ineffectiveness of security, or by reason of other factors:
1. Any structure or premises, whether commercial or residential, where gambling devices, slot machines, punch boards and other such contrivances of similar character involving any elements of chance as a consideration or any type of gambling, bookmaking, wagering or betting is carried on, and all gambling equipment, except where such specific form of gambling is permitted by applicable law;
  2. Any structure or premises, whether commercial or residential, operated as a bawdy house, house of assignation, place of prostitution or used and maintained for the commercial or criminal purposes of unlawful sexual activity in violation of federal, state or local law;
  3. Any structure or premises, whether commercial or residential, where intoxicating liquors or beer or wine are manufactured, sold, bartered or given away in violation of federal, state or local law, or where intoxicating liquors or beer or wine are kept for sale, barter or distribution in violation of federal, state or local law, and all liquors, beer, wine, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place;
  4. Any structure or premises, whether commercial or residential, where acts of sale, possession or distribution of controlled substances occur in violation of federal, state and local law;
  - 4.5. Any structure or premises, whether a commercial operation or a residential use, where breaches of the peace, disorderly conduct or Offenses against the Person found in Chapter 3, Title 16 of the South Carolina Code of Law or offenses in violation of the City of Hartsville Code occur with disproportionate frequency when compared to frequency of law enforcement action required at other similarly situated structures or premises, or where the intensity of law enforcement response, when required, is disproportionate to the intensity of response required at other similarly situated structures or premises. After notice of the continuing nature of the nuisance and identification of the facts and circumstances that either generate, enable or contribute to the nuisance, the owner, lessee, renter, management or the person in possession or control, may be held responsible for the maintenance of a public nuisance and the structure or premises declared a public nuisance.

- a. For purposes of (5) only, a commercial operation is defined as activity in which goods or services are exchanged for money or barter, or the rental or lease of accommodations for any length of time less than 30 days; and a residential use is defined as single-family residences or multifamily residences. It is the intent of this article that commercial operations shall be held responsible which generate, enable or contribute to the requirement of frequent or intensive law enforcement action due to a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors. When such a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors are identified by law enforcement as generating, enabling or contributing to the disproportionate need or frequent or intensive law enforcement action, notice shall be provided to the commercial operation; such notice shall identify the management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors that are generating, enabling or contributing to the frequency and intensity of unlawful behavior, and such notice shall advise that further occurrences may result in a declaration of a public nuisance. If, after notice, the management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors that are generating, enabling or contributing to the frequency and intensity of unlawful behavior are not changed or modified, the owner, lessee, renter, management or the person in possession or control, may be held responsible for the maintenance of a public nuisance and the structure or premises declared a public nuisance.
- b. For purposes of (5) only, a residential use is defined as any residence in which a family or individual or individuals reside for a period exceeding 30 days. It is the intent of this article that owners, lessees or renters of the property shall be held responsible for the conduct of the residents, invitees or guest that generate, enable or contribute to the requirement of frequent or intensive law enforcement action. When conduct is identified by law enforcement as generating, enabling or contributing to the disproportionate need for frequent or intensive law enforcement action, notice shall be provided to the owner, lessee or renter, such notice shall identify the conduct that is generating, enabling or contributing to the frequency and intensity of unlawful behavior, and such notice shall advise that further occurrences may result in the declaration of a public nuisance. If, after notice, the conduct that is generating, enabling or contributing to the frequency and intensity of unlawful behavior is not changed or modified, the owner, lessee, renter, management of the person in possession or control, may be held responsible for the maintenance of a public nuisance and the structure or premises declared a public nuisance.

(b) Any nuisance existing in violation of this section may be abated.

#### Article VII. Nuisances Affecting Public Order.

##### Sec. 54-101. Public Nuisances Affecting Public Order.

Public nuisances affecting public order shall include, but not be limited to, the following:

(a) All structures bearing graffiti;

(b) All structures in violation of the International Property Maintenance Code, as adopted and all structures, for a period of one month, which remain unoccupied and boarded up, and whose exterior finish is destroyed, decayed, dilapidated or deteriorated in violation of the International Property Maintenance Code, as adopted, provided, however, that unoccupied structures shall not be considered a public nuisance affecting public order if the building exterior is weather tight and maintained for purposes of appearance and security according to the International Property

Maintenance Code and the premises are kept in compliance with all applicable building, property maintenance, zoning, and land use laws;

- (c) All businesses, not exempted by law, operating without a valid, current and displayed business license.
- (d) All structures or premises continually not in compliance with applicable licensing, zoning and land use laws.
- (e) All businesses with an outstanding arrearage of applicable city liens, taxes, fees, charges or assessments.
- (f) All privately-owned structures elevated above street grade and extending over or across public streets or highways, such as overpasses, bridges, trestles or elevated passageways, whose exterior finish is destroyed, decayed, dilapidated, deteriorated or rusted.

CHAPTER 58. Offenses and Miscellaneous Provisions.

ARTICLE II. Offenses Against Property.

Sec. 58-31. Injuring, damaging, destroying, etc.

- (a) It shall be unlawful for any person to destroy, damage, mutilate, or remove the property of another. The following acts, among others, are declared to be in violation of this section, but this enumeration shall not be deemed to be exclusive:
  - (1) *Personal property.* No person within the city shall willfully, unlawfully, and maliciously cut, shoot, maim, wound, or otherwise injure any personal property of another person.
  - (2) *Fixtures and real property.* No person within the city shall willfully, unlawfully, and maliciously cut, mutilate, deface, or otherwise injure any tree, house, outside fence, or fixture of another or commit any other trespass upon real property in the possession of another.
  - (3) *City property.* No person, unless authorized by city officials, shall remove, interfere with, or destroy any city property.
  - (4) *Grassplots, flowers, etc.* No person shall drive any animal or vehicle along, on, or across any grassplot in any street, public place, or sidewalk or trample, pluck, mutilate, or injure the grass, shrubs, or flowers planted or growing in such place.
  - (5) *Trees and shrubs.* No person shall cut, scar, mutilate, dig up, or otherwise injure or destroy any trees or shrubs on the public streets or in the city parks.
- (b) Any person violating this section shall be deemed guilty of a misdemeanor.

~~Sec. 58-32. Delivery of material containing commercial advertisements.~~

~~It shall be unlawful for any person to distribute or cause to be distributed any free printed or written handbill, circular, or other written material containing any commercial advertisement in or upon any street, sidewalk, store or residence or upon the lot upon which such store or residence is located or in any other public place in the city, by delivering the material to passersby, or placing or leaving the material in or upon automobiles or other vehicles or by placing or leaving the material directly in or upon any such street, sidewalk, store, residence, lot or other public place.~~

~~Sec. 58-33 32. Posting of placards, posters, advertisements.~~

~~It shall be unlawful to post any placards, posters, or advertisements of like kind on any public property in the city or upon any private property in the city without the consent of the owner.~~

~~Secs. 58-34 33—58-60. Reserved.~~

CHAPTER 10. Buildings and Building Regulations.  
ARTICLE II. Technical Codes.

Sec. 10-38. International Property Maintenance Code.

- (a) *Adoption of the International Property Maintenance Code.* This section is to be known and referred to as the "Property Maintenance Code." There is hereby adopted by the city the most current version of the International Property Maintenance Code (the "IPMC"), as promulgated by the International Code Council, Inc. and adopted by the South Carolina Building Codes Council, a copy of which is to be kept permanently on file in the administrative offices of the city as part of the general ordinances of the city, with same being incorporated herein by reference, and without the necessity of setting out and copying in its entirety the said International Fire Code. Certain provisions of the IPMC, as provided in section 10-38(b) below, have been amended and restated.
- (b) *Amendments and revisions.* 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; CHAPTER 3 – GENERAL REQUIREMENTS Section 3-02.4 Weeds; and Section 3-04.14 Insect Screens; CHAPTER 6 – MECHANICAL AND ELECTRICAL REQUIREMENTS Section 6-02.2 Residential Occupancies; z Section 6-02.3 Heat Supply; z 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.

**NOW, THEREFORE BE IT FINALLY ORDAINED IN MEETING DULY ADVERTISED AND ASSEMBLED** on the \_\_\_th day of \_\_\_\_\_ 2023 and to become effective upon final reading.

\_\_\_\_\_  
Casey Hancock, Mayor

ATTEST: \_\_\_\_\_  
Andrea D. Crenshaw, CMC, City Clerk

First Reading: September 12, 2023  
Public Hearing:  
Final Reading:

**CITY OF HARTSVILLE- MASTER FEE SCHEDULE**  
**Approved Rate Effective 1-8-19 Ordinance 4357 unless otherwise noted**

<b>Department</b>	<b>Fee Title</b>	<b>Description</b>	<b>Current Rate</b>	<b>Proposed Rate</b>	<b>Reference &amp; Effective Date for Most Recent Update</b>
Police	Accident Report	Accident Reports Per Report	\$5.00		
Police	Bicycle Registration	Registration Per Person	\$1.00		
Police	Fingerprint Cards	Blue Fingerprint Card Per Card	\$2.00		
Police	Fingerprinting	Fingerprinting Service Per Person	\$10.00		
Police	Incident Report	Incident Reports Per Report	\$5.00		
Police	Precious Metals	Precious Metal Permit	\$50.00		
Police	Record Check	Local Criminal Background Check Per Person	\$5.00		
Police	Parking	<i>Parked in no parking zone, unattended, yellow curb and fire lane</i>	\$15.00	No Change	PENDING ORD 4457
Police	Parking	<i>Parked in a traffic lane, at fire hydrant, blocking sidewalk and driveway</i>	\$25.00	No Change	PENDING ORD 4457
Police	Parking	<i>Parked in handicapped space</i>	\$100.00	\$300.00	PENDING ORD 4457
Police	Noise Violation	Violation of noise ordinance	\$200.00	\$500.00	ORD 4459 - Eff upon final reading

**CITY OF HARTSVILLE- MASTER FEE SCHEDULE**  
**Approved Rate Effective 1-8-19 Ordinance 4357 unless otherwise noted**

<b>Department</b>	<b>Fee Title</b>	<b>Description</b>	<b>Current Rate</b>	<b>Reference &amp; Effective Date for Most Recent Update</b>
Fire - Codes Enforcement	Technical Board Appeal	Building Construction Appeal	Residential \$100 and Commercial \$300	ORD 4357 - 1/8/2019
Fire - Codes Enforcement	Demolition	Nuisance Abatement	15% of Corrective Action or \$100 whichever is greater	ORD 4357 - 1/8/2019
Fire - Codes Enforcement	Lot clearing	Nuisance Abatement	15% of Corrective Action or \$100 whichever is greater	ORD 4357 - 1/8/2019
Fire - Codes Enforcement	Mowing	Nuisance Abatement	15% of Corrective Action or \$100 whichever is greater	ORD 4357 - 1/8/2019
Fire - Codes Enforcement	Abandoned Vehicle	Nuisance Abatement	\$500.00	Ord 4285 - 3/14/2017
Fire - Codes Enforcement	Accumulation of material	Nuisance Abatement	\$500.00	Ord 1180 - 4/11/2000



## Exhibit A

### Amendments to the International Property Maintenance Code, 2021 Edition

By the terms of Ordinance No. ~~4324~~ 4349 dated ~~March 13~~ October 9, 2018, 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 most current version of the International Property Maintenance Code (the “IPMC”). By the terms of Ordinance No. 4324 dated March 13, 2018 and Ordinance No. 4459 dated October 10, 2023 ~~in~~ 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**; CHAPTER 3 – General Requirements **Section 3.02.4 Weeds**; and **Section 3.04.14 Insect Screens**; CHAPTER 6 – Mechanical and Electrical Requirements **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. However, to the extent the provisions of the code conflict in any way with Title 31, Chapter 15, Article 1 of the Code of Laws of South Carolina 1976, as amended, the provisions of this code shall apply. 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.** Absent exigent circumstances that affect public health, safety or welfare determined in the sole discretion of the Chief Building Official, the provisions of this code shall not be mandatory for any existing building or structure listed as a

"historic property" under Sec. 11-6 of the City's Code of Ordinances.

**102.7 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 8 of the IPMC 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 Business Navigator Department~~ under the direct supervision of the ~~Chief Building Official~~ director assigned by the City Manager 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 Chief Building Official 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; 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;
2. the extent to which the modification is in compliance with the intent and purpose of this code;
3. that the modification is consistent with the intent of prior modifications, if any;
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

7

**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 Violations.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*.

### 106.4 Enforcement

**106.4.1 Enforcement of Lien.** Any action taken by the City resulting in the imposition of a monetary penalty or the incurrence of demolition and/or other costs by the City shall be statutory 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.

**106.4.2 Lien Against Title.** If the lien on the offender's real property tax bill is not collectible for any reason, the lien may be recorded against the land records of the property. 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. Any lien filed on a property shall be considered a cloud against title that must be satisfied prior to any subsequent transfer of the property in question.

**106.4.3 Prosecution.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 may further 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.

**106.4.4 Separate Offenses.** 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. A preliminary notice is not required prior to the submission of a formal notice.

**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. 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 of 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 10 days of informing the violator of their violation. 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 106.4 “Enforcement” 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 Methods of service.**

**107.3.1 Preliminary Notice.** To the extent legally permissible, a preliminary notice under 107.2.1 shall be served in any manner determined by the code official.

**107.3.2 Formal Notice.** 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 under any of the following methods:

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(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. The provisions hereof are not required in the event the City complies with the provisions of 107.3.3 below regarding the posting of the structure.

4. If delivered in accordance with Section 31-15-60 of the Code of Laws of South Carolina 1976, as amended. It is expressly stated that the provisions of Title 31, Chapter 15, Article 1 are permissive and the City need not comply with such provisions when exercising the rights and privileges granted under the IPMC.

**107.3.3 Posting.** In order to expedite the process for compliance and abatement of nuisances, the City shall additionally be permitted to post or door-tag a copy of the notice in a conspicuous place in or about the front door of the offending structure on or prior to the submission of the formal notice under Section 107.3.2(2). So long as the structure is properly posted on or before the formal notice is mailed under Section 107.3.2(2) above, then in the event the notice under 107.3.2(2) was not delivered, or if the return receipt is not properly signed, the owner of such affected property shall be deemed to have been duly notified of

the notice on the 30<sup>th</sup> 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 property~~ 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 property~~ 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 (unsafe structure or unsafe equipment), is a structure unfit for human habitation, 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 offer 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.