



Work Session

WS

Milwaukie City Council

COUNCIL WORK SESSION

Zoom Video Conference
www.milwaukieoregon.gov

AGENDA

JANUARY 19, 2021

Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the City Council will hold this meeting through Zoom video meetings. The public is invited to watch live on the [city's YouTube channel](#), Comcast Cable channel 30 in city limits, or by joining the Zoom webinar (visit <https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-269> for details).

Written comments may be submitted by email to ocr@milwaukieoregon.gov. Council may take limited verbal comments. **To speak during the meeting**, see the Zoom webinar login information (see meeting page link above).

Note: agenda item times are estimates and are subject to change.

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| 1. Dangerous Building Code - Discussion (4:00 p.m.)
Staff: Samantha Vandagriff, Building Official | 1 |
| 2. Comprehensive Plan Implementation Project - Update (4:45 p.m.)
Staff: Vera Kolias, Senior Planner | 107 |
| 3. Adjourn (5:30 p.m.) | |

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el [canal de YouTube de la ciudad](#) y el Canal 30 de Comcast dentro de los límites de la ciudad.

Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



COUNCIL WORK SESSION

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MINUTES

JANUARY 19, 2021

Council Present: Councilors Angel Falconer, Lisa Batey, Kathy Hyzy, Desi Nicodemus, and Mayor Mark Gamba

Staff Present: Associate Planner Vera Kolias
Building Official Sam Vandagriff
City Attorney Justin Gericke
City Manager Ann Ober

City Recorder Scott Stauffer
Code Enforcement Coordinator Tim Salyers
Community Development Director Leila Aman

Mayor Mark Gamba called the meeting to order at 4:01 p.m.

1. Dangerous Building Code - Discussion

Ms. Vandagriff reviewed prior discussions about closing a loophole in the dangerous building code section of the Milwaukie Municipal Code (MMC). She asked for Council feedback on the proposed code changes.

Mayor Gamba observed that the current city hall building could be classified as an unsafe structure. He, **Ms. Vandagriff**, and **Councilor Batey** discussed the state of the current city hall and the definition of an unsafe structure. **Ms. Vandagriff** confirmed the current city hall did not meet the definition of an unsafe structure.

Councilor Falconer recalled previous conversations about whether to regulate flagpoles. **Ms. Vandagriff** provided background on the topic and noted that Council could add or remove flagpole regulations from the MMC. **Councilors Batey** and **Falconer** recalled previous conversations and noted the differences between residential flagpoles and large flagpoles. The group discussed safety concerns if a large flagpole were to fall. **Ms. Vandagriff** confirmed she would research standard flagpole heights and present to Council the option of the city regulating flagpoles larger than certain heights.

Councilor Hyzy observed that large flagpoles do show up on commercial land periodically. She suggested flagpoles could be added to other review processes that are specific to commercial properties. **Councilor Batey** noted minor to update and **Ms. Vandagriff** noted the changes.

Ms. Vandagriff commented on the status of homes with open code violations.

2. Comprehensive Plan Implementation Project – Update

Ms. Kolias explained that staff was in the first phase of the Comprehensive Plan implementation, discussed the project schedule, and noted next steps. She reviewed the plan update goals were to increase the supply of middle housing, increase and preserve the tree canopy, and manage parking. She noted key findings and recommendations to help achieve each goal. She reported that the Comprehensive Plan Implementation Committee (CPIC) had begun discussing clear and objective standards for housing, trees, and parking.

Mayor Gamba asked if the city required pavement or concrete for on-site residential parking. **Ms. Kolias** confirmed that the current MMC text required a durable, dust-free service, therefore gravel was not allowed for required residential parking spaces.

Councilor Batey observed that she lived in a neighborhood where people parked on gravel. She would like to know more about the environmental impacts of car chemicals running into groundwater or stormwater.

Councilor Falconer and **Ms. Kolias** discussed how much concrete was needed to meet code requirements as a required parking space. **Ms. Kolias** commented on MMC requirements and observed that it was staff's desire to ease requirements. **Councilor Falconer** noted that the parking requirements came into conflict with many of Council's goals.

Councilor Falconer asked about the conflicts between the Comprehensive Plan and recent state rulemaking. **Ms. Kolias** reported that staff was aware of the conflicts between the Comprehensive Plan and Oregon State House Bill 2001 and was working to address them.

Councilor Hyzy asked if a resident's stormwater rates would increase because they had installed a required off-street concrete parking pad. **Ms. Kolias** explained that a rate increase would depend on how much impervious surface was added. She noted that staff worked to identify and implement solutions to address rate concerns.

Councilor Hyzy observed that adding more impermeable surfaces on a property could potentially result in an increased water bill in perpetuity. **Councilor Batey** understood that stormwater was a flat fee and impermeable surfaces were not charged as a percentage of the property. She discussed upfront costs related to projects. **Councilor Hyzy** suggested Council could use clarification on rates and **Ms. Kolias** confirmed she would clarify the system development charge (SDC) details.

Mayor Gamba agreed with Councilor Falconer that the city should not require more paving for parking. He remarked that he was okay with gravel for parking and noted some negative aspects of using it. He believed that the requirement that all parking places have to be behind the front setback was problematic.

Councilor Batey commented on permeable pavement and hoped that technology was becoming more affordable.

Remarks on Proposed Resolution

Mayor Gamba asked if Council could review Councilor Hyzy's proposed resolution before the regular session meeting.

3. Adjourn

Mayor Gamba adjourned the meeting at 5:01 p.m.

Respectfully submitted,


Amy Aschenbrenner, Administrative Specialist II

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Dec. 7, 2020

Reviewed: Leila Aman, Interim Community Development Director

From: Samantha Vandagriff, Building Official, and
Tim Salyers, Code Enforcement Officer

Subject: **Dangerous Building Code Update**

ACTION REQUESTED

Council is asked to review proposed language for updating Milwaukie Municipal Code (MMC) Section 15.04.180 Dangerous or Unsafe Building.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

In 1997 the International Conference of Building Officials (ICBO) adopted the “Uniform Code for the Abatement of Dangerous Buildings”. ICBO, who was the code authority on the west coast, has since merged with two other code authorities, the Building Officials Code Administrators (BOCA, used on the east coast and throughout the midwest) and the Southern Building Code Congress International (SBCCI, used primarily in the south) to form the International Code Conference (ICC). This code was not adopted at a state level, but open for Cities to adopt at a local level.

In 1997, MMC 15.04.180 Dangerous or Unsafe Building was adopted by Ordinance 1814. Code language was based off the “1997 Uniform Code for Abatement of Dangerous Buildings”.

In 2013, MMC 15.04.180 Dangerous or Unsafe Building was amended by Ordinance 2068.

In 2019, MMC 15.04.180 Dangerous or Unsafe Building was amended by Ordinance 2180.

ANALYSIS

The Dangerous or Unsafe Building code was adopted to provide a mechanism for the city to help ensure that buildings that become unsafe or dangerous due to certain circumstances can be rendered un-occupiable and secured to keep the people safe. The purpose of this code is to protect the public from being in an unsafe condition.

Language under the scope of the original code that speaks to the applicability of the code: “The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.”

This code section is used both by the city’s building division and code enforcement division. The changes that have been proposed to the language of the code are to make the language clear and more easily enforceable. Language has also been added that would allow the city to require that a derelict building be removed or brought back into code compliance. When

enforcing this code, every effort is made to work with the homeowners or tenants to remedy the situation and provide resources for those that are affected.

The current language in section 15.04.180 was adapted from the 1997 Uniform Code for the Abatement of Dangerous Buildings. The 2018 International Property Maintenance Code (IPMC) is the most current version of the parent document. As discussed at previous Council meetings, staff has compared the two documents and provided a recommendation for updated language for section 15.04.180.

Provided in the attachments is the current MMC code language, the proposed changes to the MMC language to incorporate some of the newer language in the IPMC, and a breakdown of each section in the first chapter of the IPMC and where it is covered in the MMC. The rest of the chapters in the IPMC are related to maintenance and are not covered within this code update.

BUDGET IMPACTS

None.

WORKLOAD IMPACTS

None.

CLIMATE IMPACTS

None?

COORDINATION, CONCURRENCE, OR DISSENT

The community development director, code enforcement coordinator, and city attorney worked to draft the proposed code changes.

STAFF RECOMMENDATION

Staff recommends that Council direct staff to prepare an ordinance to consider adopting the proposed new code language.

ALTERNATIVES

Council may leave the existing code language as is or adopt portions of the proposed code language.

ATTACHMENTS

1. Proposed Changes to MMC Section 15.04.180 (redline)
2. MMC Section 15.04.180 current language
3. 2018 International Property Maintenance Code
4. IPMC chapter 1 comparison to MMC

15.04 Building Codes

15.04.030 APPEALS

- A. Any person aggrieved by a decision of the Building Official, other than a decision to impose an administrative civil penalty pursuant to Subsection 15.04.070.C, shall first appeal the decision in writing to the Building Official and request a written determination.
- B. In the case of an appeal of a decision of the Building Official to impose an administrative civil penalty pursuant to Subsection 15.04.070.C, an aggrieved person may appeal the decision to the City Manager or designee.
- C. If the person disagrees with the written determination of the Building Official, he or she may file an appeal with the appropriate State of Oregon Building Codes Division Program Chief.
- D. An appeal shall be solely on the basis of an interpretation of the Code and shall not be used as a request for a waiver or modification. (Ord. 2011 § 1, 2010; Ord. 1923 § 1 (Exh. A), 2003; Ord. 1775 § 1, 1994)

15.04.040 PURPOSE

The purpose of this chapter is to establish uniform performance standards providing reasonable safeguards for the health, safety, welfare, comfort, and security of the residents of this jurisdiction (who are occupants and users of buildings) and for the use of modern methods, devices, materials, techniques, and practicable maximum energy conservation. (Ord. 1814 § 2, 1997)

15.04.050 SCOPE

- A. This chapter shall apply to the construction, alteration, moving, demolition, repair, maintenance, and work associated with any building or structure except those located in a public way.
- B. Where, in any specific case, different sections of this chapter specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- C. Where, in any specific case, there is a conflict between this chapter and an Oregon Revised Statute, the statute shall govern. (Ord. 1814 § 2, 1997)

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

15.04.060 DEFINITIONS

For the purpose of this chapter, the following definition shall apply:

"Building Official" shall mean the officer appointed by the City of Milwaukie to regulate and enforce all provisions of this chapter pursuant to ORS 455.150 and who shall possess a State Building Official Certification.

"I.C.C." means International Code Council.

"O.R.S." means Oregon Revised Statute. (Ord. 1939 § 1 (Exh. 1), 2004; Ord. 1814 § 2, 1997)

15.04.070 AUTHORITY OF THE BUILDING OFFICIAL

A. The Building Official is authorized to enforce all the provisions of this chapter. The Building Official shall have the power to render written and oral interpretations of this chapter and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this chapter.

B. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint technical officers, inspectors and other employees to carry out the functions of this chapter, including enforcement.

C. In addition to any other enforcement mechanism authorized by this code, other than those set forth in Chapter 1.08, upon a determination by the Building Official that a person has violated a provision of this chapter or a rule adopted thereunder, the Building Official may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by Subsections 1 to 11 of this Subsection C. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

1. Prior to imposing an administrative civil penalty under this section, the Building Official shall pursue reasonable attempts to secure voluntary correction, failing which the Building Official may issue a notice of civil violation to one (1) or more of the responsible persons to correct the violation. Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than five (5) calendar days.

2. Following the date or time by which the correction must be completed as required by an order to correct a violation, the Building Official shall determine whether such correction has been completed. If the required correction has not been completed by the date and time specified in the order, the Building Official may issue a notice of administrative civil penalty to each person to whom an order to correct was issued.

3. Notwithstanding Subsection C.1 above, the Building Official may impose an administrative civil penalty without having issued an order to correct the violation or having made attempts to secure voluntary correction where the Building Official determines that the violation was knowing or intentional or a repeat of a similar violation.

4. In imposing a penalty authorized by this section, the Building Official shall consider:

- a. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
- b. Any prior violations of statutes, rules, orders and permits;
- c. The gravity and magnitude of the violation;
- d. Whether the violation was repeated or continuous;
- e. Whether the cause of the violation was an unavoidable accident, negligence or an intentional act;

- f. The violator's cooperativeness and efforts to correct the violation; and
 - g. Any relevant rule of the Building Official.
- 5. The notice of administrative civil penalty shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three (3) days after the date mailed if to an address within this state, and seven (7) days after the date mailed if to an address outside this state. A notice of administrative civil penalty shall include:
 - a. A description of the alleged violation and a reference to the particular code provision or rule involved;
 - b. A statement that the City intends to assess an administrative civil penalty for this violation and sets forth the amount of the penalty or penalties imposed;
 - c. The date on which the order to correct was issued and time by which correction was to be made, or if the penalty is imposed pursuant to Subsection C.3 of this section, a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated;
 - d. A statement of the party's right to appeal the assessment of the administrative civil penalty to the City Manager or City Manager's designee; and
 - e. The means and deadline by which an aggrieved person must file such appeal.
- 6. Any person who is issued a notice of administrative civil penalty may appeal the penalty to the City Manager or City Manager's designee. The City Manager's designee shall not be the Building Official or Building Inspector. The provisions of Section 15.04.215 of this chapter shall govern any requested hearing, except that the burden of proof shall be on the Building Official.
- 7. An administrative civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager or City Manager's designee within fifteen (15) days of the issuance of the notice of administrative civil penalty. If the responsible person appeals the administrative civil penalty to the City Manager or City Manager's designee, the penalty shall become final, if at all, upon issuance of the City Manager or City Manager's designee's decision affirming the imposition of the administrative civil penalty.
- 8. Each day the violator fails to remedy the code violation shall constitute a separate violation.
- 9. Failure to pay a penalty imposed hereunder within ten (10) days after the penalty becomes final as provided in Subsection C.7 of this section shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by Subsection C.11 below, other provisions of this code, or State statutes.
- 10. The civil administrative penalty authorized by this section shall be in addition to:

- a. Assessments or fees for any costs incurred by the City in remediation, cleanup or abatement, and
- b. Any other actions authorized by law.

11. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid thirty (30) days after such penalty becomes final, the Building Official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of City liens. At the time such an assessment is made, the Building Official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of City liens. The lien shall be enforced in the same manner as liens established by Municipal Court judgment pursuant to Code Section 1.08.300. The interest shall commence from the date of entry of the lien in the City's lien docket.

12. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to Subsection C.3 of this section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy. (Ord. 2011 § 2, 2010; Ord. 1814 § 2, 1997)

15.04.080 RIGHT OF ENTRY

When it may be necessary to inspect a building to enforce the provisions of this chapter, or the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is in violation of this chapter or which otherwise makes the building or premises unsafe, dangerous, or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided, that if the building or premises be occupied, credentials shall be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to any remedies provided by law to secure entry. (Ord. 1814 § 2, 1997)

15.04.090 STOP WORK ORDERS

Whenever any work is being done contrary to the provisions of this chapter (or other pertinent laws or chapters implemented through its enforcement), the Building Official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the Building Official to proceed thereafter. (Ord. 1814 § 2, 1997)

15.04.100 AUTHORITY TO DISCONNECT UTILITIES IN EMERGENCIES

The Building Official or the Building Official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises, or equipment regulated by this chapter when necessary to eliminate an immediate hazard to life or property. The Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure, or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner, and occupant of the

building, structure, or premises in writing of such disconnection within a reasonable time thereafter. (Ord. 1814 § 2, 1997)

15.04.110 AUTHORITY TO ABATE HAZARDOUS EQUIPMENT

A. When the Building Official ascertains that equipment, or any portion thereof, regulated by this chapter has become hazardous to life, health, or property, the Building Official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The order shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice.

B. When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) shall be sent by first class U.S. mail within twenty-four (24) hours to the involved utility, and the owner and/or occupant of the building, structure, or premises. When equipment is maintained in violation of this chapter and in violation of a notice issued pursuant to the provisions of this section, the Building Official may institute such action as necessary to prevent, restrain, correct, or abate the violation. (Ord. 1814 § 2, 1997)

15.04.120 CONNECTION AFTER ORDER TO DISCONNECT

No person shall make a connection to or from an energy, fuel, or power supply to any equipment regulated by this chapter which has been disconnected or ordered disconnected or discontinued by the Building Official until the Building Official specifically authorizes the reconnection and/or use of such equipment. (Ord. 1814 § 2, 1997)

15.04.130 MAINTENANCE

All buildings and structures, both existing and new, and ~~all equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall must be maintained in good working order. all parts thereof, shall be maintained in a safe and sanitary condition.~~ All devices or safeguards which are required by this chapter shall be maintained in conformance with this chapter. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the Building Official may cause a structure to be reinspected. (Ord. 1814 § 2, 1997)

15.04.140 OCCUPANCY VIOLATIONS

Whenever any building, structure or equipment therein regulated by this chapter is used contrary to the provisions of this chapter, the Building Official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official in the notice and make the structure, or portion thereof, comply with the requirements of this chapter. Use or occupancy of any structure, plumbing, mechanical equipment, or electrical system without approval of the Building Official is a violation of this chapter. (Ord. 1814 § 2, 1997)

15.04.150 SUSPENSION/REVOCATION

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any chapter or regulation of any other provisions of the Milwaukie Municipal Code. All fees shall remain property of the City and shall not be refunded. (Ord. 1814 § 2, 1997)

15.04.160 INSPECTIONS

A. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, to provide safe access to the site and inspection area, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. All corrections required by the Building Official shall be made within a reasonable time and before covering. The permit holder shall not proceed with construction activity until authorized to do so by the Building Official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder.

B. ~~The code official shall will make all of the required inspections or, will shall accept reports of inspection by approved agencies or individuals. Reports of such inspections must shall be in writing and be certified by a responsible officer of such the approved agency or by the responsible individual. The code official is authorized to engage any such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority. (Repealed by Ord. 1939)~~

(Ord. 1939 § 1 (Exh. 1), 2004; Ord. 1814 § 2, 1997)

15.04.170 VARIOUS SPECIALTY CODES AND STANDARDS ADOPTED

The following specialty codes, rules, and standards are adopted and incorporated herein by this reference as included in this chapter:

A. Structural Code

The Oregon Structural Specialty Code (OSSC), as adopted by OAR 918-460-0010 through 918-460-0015, except as modified in this chapter, is enforced as part of this chapter.

1. In accordance with ORS 455.020(4) permits for the following are governed by the OSSC as administered by the City:

- a. Demolition
- b. Retaining walls over 4 feet in height, or retaining a surcharge
- c. Fences over 7 feet in height
- d. Tanks not attached to or supported by a regulated building
- e. Cellular phone, radio, television and other telecommunication and broadcast towers that are not attached to or supported by a regulated building.
- f. Flagpoles over 7 feet in height not attached to or supported by a regulated building
- g. Signs not attached to or supported by a regulated building.

B. Mechanical Code

The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, except as modified in this chapter, is enforced as part of this chapter.

C. Plumbing Code

The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0010, except as modified in this chapter, is enforced as part of this chapter.

D. Electrical Code

The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010, except as modified in this chapter, is enforced as part of this chapter.

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E. Residential Code

The Oregon Residential Specialty Code, as adopted by OAR 918-480-0000 through 918-480-0010, except as modified in this chapter is enforced as part of this chapter.

F. Manufactured Dwelling Parks Rules

The Manufactured Dwelling Park and Mobile Home Park Rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this chapter, are enforced as part of this chapter.

G. Manufactured Home Installation Rules

The Manufactured Dwelling Rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this chapter, are enforced as part of this chapter.

H. Recreational Park and Organizational Camp Rules

The Recreational Park and Organizational Camp Rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this chapter, are enforced as part of this chapter.

I. Appendix J of the Oregon Structural Specialty Code is adopted and incorporated in this chapter and shall be enforced as part of this chapter.

J. Energy Efficiency Specialty Code

The Oregon Energy Efficiency Specialty Code, as adopted by OAR 918-460-0500 and 918-460-0510, except as modified in this chapter, is enforced as part of this chapter.

K. Solar Installation Specialty Code

The Oregon Solar Installation Specialty Code, as adopted pursuant to ORS 455-010 through 455-895, except as modified in this chapter, is enforced as part of this chapter. (Ord. 2068 § 1, 2013; Ord. 2018 § 1, 2010; Ord. 1957 § 1, 2006; Ord. 1939 § 1, 2004; Ord. 1887 § 1, 2001; Ord. 1814 § 2, 1997)

15.04.180 DANGEROUS OR UNSAFE BUILDINGS

A. Definitions

Building Official: For the purposes of this section “Building Official” means the Building Official of the City of Milwaukie, or that person’s designee.

Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such the structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat 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.

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.

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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 that is in such a condition of disrepair or condition that such equipment presents is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

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 the structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

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B. Dangerous Buildings

Any building, structure or property, whether improved or unimproved, which has any of the conditions or defects described in this section will constitute a "dangerous building," provided these conditions or defects endanger the health, safety or welfare of the public or occupants of the building structure or property in question:

1. Any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide a safe and adequate means of exit. ~~Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or other emergency necessitating evacuation;~~
2. The walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide a safe and adequate means of exit. ~~Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or other emergency necessitating evacuation;~~
3. ~~Whenever~~ The stress in any materials, member or portion thereof, due to dead or live loads, is more than one-and-one-half times the working stress or stresses allowed in the currently adopted Oregon Specialty Codes for new buildings of similar structure, purpose and location;
4. ~~Whenever~~ Any portion of the building, structure or property has been damaged by fire, earthquake, wind, 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; ~~flood or by any other cause, whether natural or human, to the extent that the structural strength or stability is materially less than it was before the catastrophe and is less than the minimum requirements of the currently adopted Oregon Specialty Codes for new buildings of similar structure, purpose or location;~~
5. ~~Whenever~~ any portion, member, ornamentation, or appurtenance of the building, structure or property is likely to fail, to become detached or dislodged, or to collapse, and potentially injure persons or damage property;

~~6. Whenever any portion, member, appurtenance or ornamentation on the exterior of the building, structure or property is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for new buildings;~~

~~6.7. Whenever a~~Any portion of the building, structure or property has wracked, warped, buckled or settled to the extent that walls or other structural members have materially less resistance to winds or earthquakes than is required of similar new construction;

~~7.8.~~ Whenever any portion of the building, structure or property, because of:

- a. Dilapidation, deterioration or decay,
- b. Faulty construction,
- c. The removal, movement or instability of any portion of the ground necessary to the support of the building,
- d. The deterioration, decay or inadequacy of its foundation

~~e. Some portion of the foundation or underpinning of the building or structure is likely to fail or give away, or, or~~

~~f.e.~~ Any other cause, is likely to partially or completely collapse;

~~8.9. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy~~Whenever, for any reason, any portion of the building, structure or property is manifestly unsafe for the purpose for which it is being used,

~~9.10. Whenever t~~The exterior walls or other vertical structural members list, lean or buckle to the extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

~~11. Whenever a building or structure, exclusive of the foundation, shows thirty three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members as required by law for newly constructed buildings of like area, height or occupancy in the same location;~~

~~102. Whenever a~~The building, structure or property has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:

- a. An attractive nuisance to children,
- b. A harbor for vagrants, or criminals, or as to
- c. Enable persons to resort thereto for the purpose of committing unlawful acts;

~~113. Whenever a~~The building, structure or property has been constructed, exists, is used, or is maintained in violation of any specific requirement, prohibition or permit condition applicable to the building provided by any provision of this code, the currently adopted Oregon Specialty Codes, or state law;

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~~14. Whenever a building or structure, whether or not erected in accordance with all applicable laws and ordinances, which has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six percent (66%) of the: (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law for newly constructed buildings of like area, height or occupancy in the same location;~~

~~125. Whenever a~~The building, structure or property, 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 systems~~air or sanitation facilities, air or sanitation facilities~~, or otherwise, is determined by the Building Official to be unsanitary, unfit for human habitation or in a condition that is likely to cause sickness or disease;

~~136. Whenever a~~A building, structure or property, because of ~~obsolescence~~, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, fire protection systems, electrical systems~~faulty electric wiring, gas~~fuel connections or ~~heating apparatus~~mechanical systems, or other cause, is determined by the Building Official to be a fire, life or safety hazard;

~~147. Whenever a~~A building, structure or property is in a condition that constitutes a public nuisance known to the common law or equity jurisprudence or the City of Milwaukie Municipal Code;

~~158. Whenever a~~Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure so as to qualify any portion of the building an attractive nuisance or hazard to the public.

C. Administration

1. Building Inspections. The Building Official is authorized to make inspections, take actions, and make interpretations of this chapter as may be required to enforce the provisions of this chapter.

2. Right of Entry. Whenever necessary to make an inspection to enforce any provision of this code, or whenever the Building Official has reasonable cause to believe that any of the dangerous building conditions mentioned in Section 15.04.180.B exist, the Building Official may enter the building, structure or property at all reasonable times to inspect the same or to carry out any provision of this chapter.

a. Occupancy

i. Occupied Building

If the building or premises is occupied, the Building Official must first present proper credentials and request entry of the property owner or person in charge.

ii. Unoccupied Building

If the building or premises are unoccupied, the Building Official must first make a reasonable effort to locate the owner or person in charge of the building or premises and request entry.

b. Refusal or Unlocatable

If entry is refused, or the owner or person in charge is unlocatable, the Building Official will seek an appropriate warrant from municipal or circuit court authorizing entry.

3. Closing of Vacant Structures

If the structure is vacant and unfit for human habitation and occupancy, 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 within the time specified in the order, the code official shall must 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 will shall be charged against the real estate upon which the structure is located and will shall be a lien upon such the real estate to be collected and shall be collected by by any other legal resource available to the city.

4. Enforcement Upon Inspection

All buildings, structures or properties, whether improved or unimproved, which are determined after inspection by the Building Official to be dangerous as defined in this chapter are declared to be public nuisances and will constitute a civil infraction.

54. Posting of Property and Restriction of Access

The Building Official, upon a finding that a building, structure or property constitutes a dangerous building may post the property with a notice. The Building Official may also delimit the area of danger and prohibit all persons from entering onto, occupying or inhabiting the dangerous building area. Notice must include at least the following:

- a. That the Building Official, upon inspection, has determined the structure to be dangerous and a hazard to the public health, safety or welfare; and
- b. That the property is not to be entered upon or occupied by anyone without specific authority of the Building Official; and
- c. That any person found to be occupying or otherwise upon the property without authority will be subject to citation and arrest for trespass.

65. Violation of Posting

Violation by any person of notice and access restriction will constitute trespass, a misdemeanor offense under this code. Notwithstanding Section 15.04.180.I, any person who enters or remains in or on a building, structure or property that the Building Official has posted under authority of this section commits the crime of criminal trespass and may be subject to arrest or prosecution under ORS 164.245 or 164.255, whichever is applicable under the circumstances.

D. Emergency Enforcement

Notwithstanding any other section of this chapter, the Building Official may require immediate remedial action to enforce the provisions of this chapter, in accordance with Chapter 1.08 of this code.

E. Action Required

1. **Corrective Action Required.** ~~The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall must~~ abate or cause to be abated or corrected ~~thesuch~~ unsafe conditions ~~, either by repair, rehabilitation, demolition or other approved corrective action. When the Building Official has inspected or caused to be inspected any building and has found and determined that the building is a dangerous building, the Building Official must require corrective action by repair, vacation, and/or demolition.~~

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2. **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 must~~ be given in the manner prescribed in Sections E2a and E2b to the person responsible for the violation as specified in this code. Notices for condemnation procedures ~~must shall~~ comply with Section 108.3.

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a. Form. ~~SuchThe~~ notice prescribed in Section E2 ~~must shall~~ be in accordance with all of the following:

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1) Be in writing.

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2) Include a description of the real estate sufficient for identification.

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3) Include a statement of the violation or violations and why the notice is being issued.

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4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.

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5) Inform the property *owner* or owner's authorized agent of the right to appeal.

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6) Include a statement of the right to file a lien in accordance with Section 15.04.070(11).

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b. Method of service. ~~SuchThe~~ notice ~~will shall~~ be deemed to be properly served if a copy ~~thereof~~ is: delivered personally, or sent by certified or first-class mail addressed to the last known address. If the notice is returned showing that the letter was not delivered, a copy ~~thereof~~ shall be posted in a conspicuous place in or about the structure affected by ~~thesuch~~ notice.

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c. Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* ~~shall must~~ not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

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d. Penalties. Penalties for noncompliance with orders and notices ~~shall will~~ be as set forth in Section 15.04.180(H).

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e. Transfer of ownership. It ~~shall be is~~ unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dis-~~pose of thesuch~~ *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until ~~thesuch~~ *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 ~~thesuch~~ compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by ~~suchthe~~ compliance order or notice of violation. ~~Contents of Notice.~~ The Building Official will issue a notice and order directed to the record owner or owners of the building, structure or property. The notice and order must contain:

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~~a. The street address and a legal description sufficient for identification of the premises upon which the building is located.~~

~~b. A statement that the Building Official has found the building, structure or property to be a dangerous building, with a brief description of the conditions found to render the building dangerous under the provisions of subsection B of this section.~~

~~c. A statement of the action required to be taken as determined by the Building Official.~~

~~i. Repair Required. A statement advising that if the Building Official has determined that the building must be repaired, that all required permits will be secured and the work physically commenced within such time (not to exceed sixty (60) days from the date of the order) and completed within such time as the Building Official will determine reasonable under all of the circumstances.~~

~~ii. Vacation Required. A statement advising that if the Building Official has determined that the building must be vacated, that the building or structure will be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.~~

~~iii. Demolition Required. A statement advising that if the Building Official has determined that the building or structure must be demolished, the building must be vacated within such time as the Building Official will determine is reasonable (not to exceed sixty (60) days from the date of the order), that all required permits be secured therefor within sixty (60) days from the date of the order, and that the demolition be completed within such time as the Building Official will determine is reasonable.~~

~~iv. Repair or Demolition Required Without Vacation. Statements advising that if any required repair or demolition work without vacation also being required is not commenced within the time specified, the Building Official will order the building vacated and posted to prevent further occupancy until the work is completed; and may proceed to cause the work to be done and charge the costs thereof against the property or its owner.~~

~~d. A statement advising that any person having any record title or legal interest in the building may be issued a citation and be ordered to appear in municipal court.~~

3. Service of Notice. The notice and order (and any amended or supplemental notice and order) will be served upon each of the following if known to the Building Official or disclosed from official public records:

- a. The record owner, and
- b. The holder of any mortgage, deed of trust or other lien or encumbrance of record, and
- c. The owner or holder of any lease of record, and
- d. The holder of any other estate or legal interest of record in or to the building or the land on which it is located.

4. Failed Delivery of Notice. The failure of the Building Official to serve any person required to be served will not invalidate any proceedings as to any other person duly

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served or relieve any person from any duty or obligation imposed by the provisions of this section.

5. Methods of Service

a. Location Known. Service of the notice and order must be made upon all persons, either personally or by mailing a copy by certified mail, postage prepaid, to each person at their address as it appears in the Clackamas County tax records, or as otherwise known to the Building Official.

b. Location Unknown. If no address appears or is known to the Building Official, then a copy of the notice and order must be mailed and addressed to the address of the building involved in the proceedings.

6. Failed Reception of Notice. The failure of any person to receive notice will not affect the validity of any proceedings taken under this section.

7. Date of Service. Service by certified mail will be effective on the date of mailing.

8. Proof of Service. Proof of service of the notice and order must be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail must be affixed to the copy of the notice and order retained by the Building Official.

F. Repair, Vacation, and Demolition

The following standards will be followed by the Building Official in ordering repair, vacation, or demolition of any dangerous building or structure:

1. Any building declared a dangerous building under this chapter must be made to comply with one of the following:

a. The building must be repaired in accordance with the currently adopted Oregon Specialty Code or other current code applicable to the type of substandard conditions requiring repair;

b. The building must be demolished at the option of the building owner; or

c. If the building does not constitute an immediate danger to the health, safety, or welfare of the public it may be vacated, secured and maintained against entry.

2. If the condition of a building or structure makes it immediately dangerous to the health, safety, or welfare of the public or its occupants, it will be ordered to be vacated.

G. Abandoned Structure

If a Dangerous Building remains for 180 days from the date of declaration it will be deemed an abandoned structure. An Abandoned Structure will be deemed a nuisance and is subject to enforcement and abatement according to Chapter 8.04 of this code.

H. Violation—Penalty

1. Any person who performs an act prohibited by this chapter, or who fails to perform an act required by this chapter, commits a violation.

2. No person will cause, create, construct, maintain, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, occupy, or otherwise use any dangerous building or cause or permit any dangerous building to be in violation of this chapter.
3. Violations under this title are enforceable under Title 1 of the Milwaukie Municipal Code. The maximum penalty for any violation under this chapter is a fine of one thousand dollars (\$1,000.00) per day. Each day that the violation exists will constitute a separate offense. (Ord. 2180 § 1, 2019; Ord. 2068 § 1, 2013; Ord. 1814 § 2, 1997)

15.04.200 PLANS AND PERMITS

A. Issuance

1. The application, plans, specifications, computations, and other data filed by an applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws or chapters. If the Building Official finds that the work described in application for a permit and the plans, specifications, and other data filed therewith conform to the requirements of this chapter and other pertinent laws and chapters, and that the fees have been paid, the Building Official shall issue a permit therefor to the applicant.
2. When the Building Official issues the permit where plans are required, the Building Official shall endorse in writing or stamp the plans and specifications Reviewed for Code Compliance. Such approved plans and specifications shall not be changed, modified, and altered without authorizations from the Building Official, and all work regulated by the Building Official and this chapter shall be done in accordance with the approved plans.
3. The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this chapter. The issuance of a partial permit shall not constitute or be construed as an assurance that the permit for the entire building or structure will be granted. The holder of a partial permit proceeds with such work at the holder's own risk.

B. Retention of Plans

One set of approved plans, specifications, and computations shall be retained by the Building Official as required by OAR 166-200-0025. One set of approved plans and specifications shall be returned to the applicant, who must keep this plan set on the site of the building or work at all times during which the authorized work is in progress.

C. Validity of Permit

1. The issuance or granting of a permit or approval of plans, specifications, and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other chapter of the jurisdiction or any other federal, State, or local law, statute, rule, regulation, or Oregon Specialty Code.

2. The issuance of a permit based on plans, specifications, and other data shall not prevent the Building Official from thereafter requiring the correction of errors in such plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this chapter or of any other chapters of this jurisdiction.

3. The issuance of a permit based on plans, specifications, and other data shall not be a guarantee by the City or the Building Official of the soundness of such plans or specifications, and shall not be a basis for imposing liability upon the City or any of its agents or employees, specifically including the Building Official.

D. Not Transferable

Absent express approval of the Building Official, a permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

E. Expiration of Plan Reviews

Applications for which no permit is issued will expire as outlined in the appropriate Oregon Specialty Code under which the permit was issued.

F. Permit Expiration, Extension, and Reinstatement

1. Every permit issued by the Building Official under the provisions of this chapter shall expire by limitation and become null and void as outlined in the appropriate Oregon Specialty Code under which the permit was issued. Permits may be extended and reinstated as outlined in the appropriate Oregon Specialty Code under which the permit was issued.

2. In addition to the time limits outlined above, every permit issued by the Building Official shall expire by limitation and become null and void twenty-four (24) months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

3. Exception

a. At the time of permit issuance the Building Official may approve a period exceeding twenty-four (24) months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within twenty-four (24) months unreasonable.

b. Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one year, on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than twice.

c. Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

- (1) The specialty code under which the original permit was issued and other chapters which are enforced by the Building Official have not been amended in any manner which affects the work authorized by the original permit.
- (2) No changes have been made or will be made in the original plans and specifications for such work.
- (3) If the original permit expired less than one year from the request to reinstate, the fee for a reinstated permit shall be one-half ($\frac{1}{2}$) the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, based on the valuation of the work to be completed, shall be required. (Ord. 2068 § 1, 2013; Ord. 1939 § 1, 2004; Ord. 1814 § 2, 1997)

15.04.210 FEES

- A. Fees charged under this chapter shall be established by resolution of the City Council.
- B. The Building Official may authorize the refunding of fees paid.
- C. Building permit valuation shall be determined as outlined in the appropriate Oregon Specialty Code under which the permit is issued. (Ord. 2068 § 1, 2013; Ord. 1814 § 2, 1997)

15.04.215 APPEAL OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY FOR VIOLATION OF THE STRUCTURAL SPECIALTY CODE

- A. A person aggrieved by a notice of administrative civil penalty issued by the Building Official for violation of this chapter may, within fifteen (15) days after the date of notice of the action, appeal in writing to the City Manager or designee. The appeal shall be accompanied by a two hundred fifty dollar (\$250.00) appeal fee as established by the City and shall state:
 1. The name and address of the appellant;
 2. The nature of the determination being appealed;
 3. The reason the determination is incorrect; and
 4. What the correct determination of the appeal should be.
- B. An appellant who fails to file such an appeal within the time permitted waives the objection. Except as provided in Subsection F of this section, the appeal fee is not refundable.
- C. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.
- D. Unless the appellant and the City agree to a longer period, an appeal shall be heard by the City Manager or City Manager's designee within thirty (30) days of the receipt of the

notice of intent to appeal. At least ten (10) days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.

E. The City Manager or City Manager's designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Manager or City Manager's designee deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.

F. The City Manager or City Manager's designee shall issue a written decision within ten (10) days of the hearing date. The decision of the City Manager or City Manager's designee after the hearing is final and may include a determination that the appeal fee be refunded to the applicant upon a finding by the City Manager or City Manager's designee that the appeal was not frivolous. (Ord. 2011 § 3, 2010)

15.04.220 APPEAL PROCEDURE

A. Any person aggrieved by a decision of the Building Official other than the imposition of an administrative civil penalty, made pursuant to the following specialty codes may appeal that decision to the following:

1. Electrical Specialty Code

Appeals may be made to the State of Oregon, Building Codes Division, Chief Electrical Inspector.

2. Structural Specialty Code

Appeals may be made to the State of Oregon, Building Codes Structures Board.

3. Mechanical Specialty Code

Appeals may be made to the State of Oregon, Building Codes Structures Board.

4. Plumbing Specialty Code

Appeals may be made to the State of Oregon, Building Codes Division.

5. One and Two Family Dwelling Specialty Code

Appeals may be made to the State of Oregon, Building Codes Structures Board.

6. Manufactured Dwelling Code

Appeals may be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

7. Recreational Park and Organizational Camp Regulations

Appeals may be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

8. All other appeals may be made to the appropriate board or agency.

B. An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with the Building Official. (Ord. 2011 § 4, 2010; Ord. 1814 § 2, 1997)

15.04.230 VALIDITY

If any section, paragraph, subdivision, clause, sentence, or provisions of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this chapter, but the effect thereof

shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this chapter notwithstanding the parts to be declared unconstitutional and invalid. (Ord. 1814 § 2, 1997)

15.04.240 PENALTIES

A. Any person violating any of the provisions of this chapter for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed one thousand dollars (\$1,000.00) per violation. Each day that a violation exists is a separate offense.

B. The administrative civil penalty referred to in Subsection 15.04.070.C shall be an amount set by the Building Official not to exceed five thousand dollars (\$5,000.00) or one thousand dollars (\$1,000.00) per day for continuous violation. (Ord. 2011 § 5, 2010; Ord. 1814 § 2, 1997)

15.04.250 WORK WITHOUT A PERMIT/INVESTIGATION FEES/PENALTIES

A. Whenever any work for which a permit is required by this chapter has been commenced without first obtaining such permit, a special investigation shall be made before a permit may be issued for such work.

B. An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this chapter nor from any penalty prescribed by law. (Ord. 1814 § 2, 1997)

15.04 Building Codes

15.04.030 APPEALS

- A. Any person aggrieved by a decision of the Building Official, other than a decision to impose an administrative civil penalty pursuant to Subsection 15.04.070.C, shall first appeal the decision in writing to the Building Official and request a written determination.
- B. In the case of an appeal of a decision of the Building Official to impose an administrative civil penalty pursuant to Subsection 15.04.070.C, an aggrieved person may appeal the decision to the City Manager or designee.
- C. If the person disagrees with the written determination of the Building Official, he or she may file an appeal with the appropriate State of Oregon Building Codes Division Program Chief.
- D. An appeal shall be solely on the basis of an interpretation of the Code and shall not be used as a request for a waiver or modification. (Ord. 2011 § 1, 2010; Ord. 1923 § 1 (Exh. A), 2003; Ord. 1775 § 1, 1994)

15.04.040 PURPOSE

The purpose of this chapter is to establish uniform performance standards providing reasonable safeguards for the health, safety, welfare, comfort, and security of the residents of this jurisdiction (who are occupants and users of buildings) and for the use of modern methods, devices, materials, techniques, and practicable maximum energy conservation. (Ord. 1814 § 2, 1997)

15.04.050 SCOPE

- A. This chapter shall apply to the construction, alteration, moving, demolition, repair, maintenance, and work associated with any building or structure except those located in a public way.
- B. Where, in any specific case, different sections of this chapter specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- C. Where, in any specific case, there is a conflict between this chapter and an Oregon Revised Statute, the statute shall govern. (Ord. 1814 § 2, 1997)
- D. **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.

15.04.060 DEFINITIONS

For the purpose of this chapter, the following definition shall apply:

“Building Official” shall mean the officer appointed by the City of Milwaukie to regulate and enforce all provisions of this chapter pursuant to ORS 455.150 and who shall possess a State Building Official Certification.

“I.C.C.” means International Code Council.

“O.R.S.” means Oregon Revised Statute. (Ord. 1939 § 1 (Exh. 1), 2004; Ord. 1814 § 2, 1997)

15.04.070 AUTHORITY OF THE BUILDING OFFICIAL

A. The Building Official is authorized to enforce all the provisions of this chapter. The Building Official shall have the power to render written and oral interpretations of this chapter and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this chapter.

B. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint technical officers, inspectors and other employees to carry out the functions of this chapter, including enforcement.

C. In addition to any other enforcement mechanism authorized by this code, other than those set forth in Chapter 1.08, upon a determination by the Building Official that a person has violated a provision of this chapter or a rule adopted thereunder, the Building Official may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by Subsections 1 to 11 of this Subsection C. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

1. Prior to imposing an administrative civil penalty under this section, the Building Official shall pursue reasonable attempts to secure voluntary correction, failing which the Building Official may issue a notice of civil violation to one (1) or more of the responsible persons to correct the violation. Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than five (5) calendar days.

2. Following the date or time by which the correction must be completed as required by an order to correct a violation, the Building Official shall determine whether such correction has been completed. If the required correction has not been completed by the date and time specified in the order, the Building Official may issue a notice of administrative civil penalty to each person to whom an order to correct was issued.

3. Notwithstanding Subsection C.1 above, the Building Official may impose an administrative civil penalty without having issued an order to correct the violation or having made attempts to secure voluntary correction where the Building Official determines that the violation was knowing or intentional or a repeat of a similar violation.

4. In imposing a penalty authorized by this section, the Building Official shall consider:

- a. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
- b. Any prior violations of statutes, rules, orders and permits;
- c. The gravity and magnitude of the violation;
- d. Whether the violation was repeated or continuous;
- e. Whether the cause of the violation was an unavoidable accident, negligence or an intentional act;

- f. The violator's cooperativeness and efforts to correct the violation; and
 - g. Any relevant rule of the Building Official.
- 5. The notice of administrative civil penalty shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three (3) days after the date mailed if to an address within this state, and seven (7) days after the date mailed if to an address outside this state. A notice of administrative civil penalty shall include:
 - a. A description of the alleged violation and a reference to the particular code provision or rule involved;
 - b. A statement that the City intends to assess an administrative civil penalty for this violation and sets forth the amount of the penalty or penalties imposed;
 - c. The date on which the order to correct was issued and time by which correction was to be made, or if the penalty is imposed pursuant to Subsection C.3 of this section, a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated;
 - d. A statement of the party's right to appeal the assessment of the administrative civil penalty to the City Manager or City Manager's designee; and
 - e. The means and deadline by which an aggrieved person must file such appeal.
- 6. Any person who is issued a notice of administrative civil penalty may appeal the penalty to the City Manager or City Manager's designee. The City Manager's designee shall not be the Building Official or Building Inspector. The provisions of Section 15.04.215 of this chapter shall govern any requested hearing, except that the burden of proof shall be on the Building Official.
- 7. An administrative civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager or City Manager's designee within fifteen (15) days of the issuance of the notice of administrative civil penalty. If the responsible person appeals the administrative civil penalty to the City Manager or City Manager's designee, the penalty shall become final, if at all, upon issuance of the City Manager or City Manager's designee's decision affirming the imposition of the administrative civil penalty.
- 8. Each day the violator fails to remedy the code violation shall constitute a separate violation.
- 9. Failure to pay a penalty imposed hereunder within ten (10) days after the penalty becomes final as provided in Subsection C.7 of this section shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by Subsection C.11 below, other provisions of this code, or State statutes.
- 10. The civil administrative penalty authorized by this section shall be in addition to:

- a. Assessments or fees for any costs incurred by the City in remediation, cleanup or abatement, and
- b. Any other actions authorized by law.

11. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid thirty (30) days after such penalty becomes final, the Building Official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of City liens. At the time such an assessment is made, the Building Official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of City liens. The lien shall be enforced in the same manner as liens established by Municipal Court judgment pursuant to Code Section 1.08.300. The interest shall commence from the date of entry of the lien in the City's lien docket.

12. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to Subsection C.3 of this section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy. (Ord. 2011 § 2, 2010; Ord. 1814 § 2, 1997)

15.04.080 RIGHT OF ENTRY

When it may be necessary to inspect a building to enforce the provisions of this chapter, or the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is in violation of this chapter or which otherwise makes the building or premises unsafe, dangerous, or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided, that if the building or premises be occupied, credentials shall be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to any remedies provided by law to secure entry. (Ord. 1814 § 2, 1997)

15.04.090 STOP WORK ORDERS

Whenever any work is being done contrary to the provisions of this chapter (or other pertinent laws or chapters implemented through its enforcement), the Building Official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the Building Official to proceed thereafter. (Ord. 1814 § 2, 1997)

15.04.100 AUTHORITY TO DISCONNECT UTILITIES IN EMERGENCIES

The Building Official or the Building Official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises, or equipment regulated by this chapter when necessary to eliminate an immediate hazard to life or property. The Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure, or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner, and occupant of the

building, structure, or premises in writing of such disconnection within a reasonable time thereafter. (Ord. 1814 § 2, 1997)

15.04.110 AUTHORITY TO ABATE HAZARDOUS EQUIPMENT

A. When the Building Official ascertains that equipment, or any portion thereof, regulated by this chapter has become hazardous to life, health, or property, the Building Official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The order shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice.

B. When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) shall be sent by first class U.S. mail within twenty-four (24) hours to the involved utility, and the owner and/or occupant of the building, structure, or premises. When equipment is maintained in violation of this chapter and in violation of a notice issued pursuant to the provisions of this section, the Building Official may institute such action as necessary to prevent, restrain, correct, or abate the violation. (Ord. 1814 § 2, 1997)

15.04.120 CONNECTION AFTER ORDER TO DISCONNECT

No person shall make a connection to or from an energy, fuel, or power supply to any equipment regulated by this chapter which has been disconnected or ordered disconnected or discontinued by the Building Official until the Building Official specifically authorizes the reconnection and/or use of such equipment. (Ord. 1814 § 2, 1997)

15.04.130 MAINTENANCE

All buildings and structures, both existing and new, and all equipment, systems, devices and safe- guards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. . All devices or safeguards which are required by this chapter shall be maintained in conformance with this chapter. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the Building Official may cause a structure to be reinspected. (Ord. 1814 § 2, 1997)

15.04.140 OCCUPANCY VIOLATIONS

Whenever any building, structure or equipment therein regulated by this chapter is used contrary to the provisions of this chapter, the Building Official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official in the notice and make the structure, or portion thereof, comply with the requirements of this chapter. Use or occupancy of any structure, plumbing, mechanical equipment, or electrical system without approval of the Building Official is a violation of this chapter. (Ord. 1814 § 2, 1997)

15.04.150 SUSPENSION/REVOCATION

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any chapter or regulation of any other provisions of the Milwaukie Municipal Code. All fees shall remain property of the City and shall not be refunded. (Ord. 1814 § 2, 1997)

15.04.160 INSPECTIONS

A. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, to provide safe access to

the site and inspection area, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. All corrections required by the Building Official shall be made within a reasonable time and before covering. The permit holder shall not proceed with construction activity until authorized to do so by the Building Official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder.

B. The code official shall make all of the required inspections or, shall accept reports of inspection by approved agencies or individuals. 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 on unusual technical issues that arise, subject to the approval of the appointing authority.

(Ord. 1939 § 1 (Exh. 1), 2004; Ord. 1814 § 2, 1997)

15.04.170 VARIOUS SPECIALTY CODES AND STANDARDS ADOPTED

The following specialty codes, rules, and standards are adopted and incorporated herein by this reference as included in this chapter:

A. Structural Code

The Oregon Structural Specialty Code (OSSC), as adopted by OAR 918-460-0010 through 918-460-0015, except as modified in this chapter, is enforced as part of this chapter.

1. In accordance with ORS 455.020(4) permits for the following are governed by the OSSC as administered by the City:
 - a. Demolition
 - b. Retaining walls over 4 feet in height, or retaining a surcharge
 - c. Fences over 7 feet in height
 - d. Tanks not attached to or supported by a regulated building
 - e. Cellular phone, radio, television and other telecommunication and broadcast towers that are not attached to or supported by a regulated building.
 - f. Flagpoles over 7 feet in height not attached to or supported by a regulated building
 - g. Signs not attached to or supported by a regulated building

B. Mechanical Code

The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, except as modified in this chapter, is enforced as part of this chapter.

C. Plumbing Code

The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0010, except as modified in this chapter, is enforced as part of this chapter.

D. Electrical Code

The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010, except as modified in this chapter, is enforced as part of this chapter.

E. Residential Code

The Oregon Residential Specialty Code, as adopted by OAR 918-480-0000 through 918-480-0010, except as modified in this chapter is enforced as part of this chapter.

F. Manufactured Dwelling Parks Rules

The Manufactured Dwelling Park and Mobile Home Park Rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this chapter, are enforced as part of this chapter.

G. Manufactured Home Installation Rules

The Manufactured Dwelling Rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this chapter, are enforced as part of this chapter.

H. Recreational Park and Organizational Camp Rules

The Recreational Park and Organizational Camp Rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this chapter, are enforced as part of this chapter.

I. Appendix J of the Oregon Structural Specialty Code is adopted and incorporated in this chapter and shall be enforced as part of this chapter.

J. Energy Efficiency Specialty Code

The Oregon Energy Efficiency Specialty Code, as adopted by OAR 918-460-0500 and 918-460-0510, except as modified in this chapter, is enforced as part of this chapter.

K. Solar Installation Specialty Code

The Oregon Solar Installation Specialty Code, as adopted pursuant to ORS 455-010 through 455-895, except as modified in this chapter, is enforced as part of this chapter. (Ord. 2068 § 1, 2013; Ord. 2018 § 1, 2010; Ord. 1957 § 1, 2006; Ord. 1939 § 1, 2004; Ord. 1887 § 1, 2001; Ord. 1814 § 2, 1997)

15.04.180 DANGEROUS OR UNSAFE BUILDINGS

A. Definitions

Building Official: For the purposes of this section “Building Official” means the Building Official of the City of Milwaukie, or that person’s designee.

Structure unfit for human occupancy. A structure is unfit for human occupancy 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 or rat 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.

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.

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 that 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.

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 possible.

B. Dangerous Buildings

Any building, structure or property, whether improved or unimproved, which has any of the conditions or defects described in this section will constitute a “dangerous building,” provided these conditions or defects endanger the health, safety or welfare of the public or occupants of the building structure or property in question:

- 1 Any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit
2. The walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit;
3. The stress in any materials, member or portion thereof, due to dead or live loads, is more than one-and-one-half times the working stress or stresses allowed in the currently adopted Oregon Specialty Codes for new buildings of similar structure, purpose and location;
4. Any portion of the building, structure or property has been damaged by fire, earthquake, wind, 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;
5. Any portion, member, ornamentation, or appurtenance of the building, structure or property is likely to fail, to become detached or dislodged, or to collapse, and potentially injure persons or damage property;
6. Any portion of the building, structure or property has wracked, warped, buckled or settled to the extent that walls or other structural members have materially less resistance to winds or earthquakes than is required of similar new construction;
7. Whenever any portion of the building, structure or property, because of:
 - a. Dilapidation, deterioration or decay,
 - b. Faulty construction,
 - c. The removal, movement or instability of any portion of the ground necessary to the support of the building,
 - d. The deterioration, decay or inadequacy of its foundation
 - e. Some portion of the foundation or underpinning of the building or structure is likely to fail or give away, or
 - f. Any other cause, is likely to partially or completely collapse;

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

9. The exterior walls or other vertical structural members list, lean or buckle to the extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

10. The building, structure or property has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:

- a. An attractive nuisance to children,
- b. A harbor for vagrants, or criminals, or as to
- c. Enable persons to resort thereto for the purpose of committing unlawful acts;

11. The building, structure or property has been constructed, exists, is used, or is maintained in violation of any specific requirement, prohibition or permit condition applicable to the building provided by any provision of this code, the currently adopted Oregon Specialty Codes, or state law;

12. The building, structure or property, 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 Building Official to be unsanitary, unfit for human habitation or in a condition that is likely to cause sickness or disease;

13. A building, structure or property, because of, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, fire protection systems, electrical systems, fuel connections or mechanical systems, or other cause, is determined by the Building Official to be a fire, life or safety hazard;

14. A building, structure or property is in a condition that constitutes a public nuisance known to the common law or equity jurisprudence or the City of Milwaukie Municipal Code;

15. Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure so as to qualify any portion of the building an attractive nuisance or hazard to the public.

C. Administration

1. Building Inspections. The Building Official is authorized to make inspections, take actions, and make interpretations of this chapter as may be required to enforce the provisions of this chapter.

2. Right of Entry. Whenever necessary to make an inspection to enforce any provision of this code, or whenever the Building Official has reasonable cause to believe that any of the dangerous building conditions mentioned in Section 15.04.180.B exist, the Building Official may enter the building, structure or property at all reasonable times to inspect the same or to carry out any provision of this chapter.

- a. Occupancy
 - i. Occupied Building

If the building or premises is occupied, the Building Official must first present proper credentials and request entry of the property owner or person in charge.

ii. Unoccupied Building

If the building or premises are unoccupied, the Building Official must first make a reasonable effort to locate the owner or person in charge of the building or premises and request entry.

b. Refusal or Unlocatable

If entry is refused, or the owner or person in charge is unlocatable, the Building Official will seek an appropriate warrant from municipal or circuit court authorizing entry.

3. Closing of Vacant Structures

If the structure is vacant and unfit for human habitation and occupancy, 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 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 estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

4. Enforcement Upon Inspection

All buildings, structures or properties, whether improved or unimproved, which are determined after inspection by the Building Official to be dangerous as defined in this chapter are declared to be public nuisances and will constitute a civil infraction.

5. Posting of Property and Restriction of Access

The Building Official, upon a finding that a building, structure or property constitutes a dangerous building may post the property with a notice. The Building Official may also delimit the area of danger and prohibit all persons from entering onto, occupying or inhabiting the dangerous building area. Notice must include at least the following:

- a. That the Building Official, upon inspection, has determined the structure to be dangerous and a hazard to the public health, safety or welfare; and
- b. That the property is not to be entered upon or occupied by anyone without specific authority of the Building Official; and
- c. That any person found to be occupying or otherwise upon the property without authority will be subject to citation and arrest for trespass.

6. Violation of Posting

Violation by any person of notice and access restriction will constitute trespass, a misdemeanor offense under this code. Notwithstanding Section 15.04.180.I, any person who enters or remains in or on a building, structure or property that the Building Official has posted under authority of this section commits the crime of

criminal trespass and may be subject to arrest or prosecution under ORS 164.245 or 164.255, whichever is applicable under the circumstances.

D. Emergency Enforcement

Notwithstanding any other section of this chapter, the Building Official may require immediate remedial action to enforce the provisions of this chapter, in accordance with Chapter 1.08 of this code.

E. Action Required

1. **Corrective Action Required.** 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.

2. **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 given in the manner prescribed in Sections E2a and E2b to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall comply with Section 108.3.

a. Form. Such notice prescribed in Section E2 shall be in accordance with all of the following:

- 1) Be in writing.
- 2) Include a description of the real estate sufficient for identification.
- 3) Include a statement of the violation or violations and why the notice is being issued.
- 4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
- 5) Inform the property *owner* or owner's authorized agent of the right to appeal.
- 6) Include a statement of the right to file a lien in accordance with Section 15.04.070(11)

b. Method of service. Such notice shall be deemed to be properly served if a copy thereof is: delivered personally, or sent by certified or first-class mail addressed to the last known address. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

c. Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

d. Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 15.04.180(H).

e. Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true

copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

3. Service of Notice. The notice and order (and any amended or supplemental notice and order) will be served upon each of the following if known to the Building Official or disclosed from official public records:

- a. The record owner, and
- b. The holder of any mortgage, deed of trust or other lien or encumbrance of record, and
- c. The owner or holder of any lease of record, and
- d. The holder of any other estate or legal interest of record in or to the building or the land on which it is located.

4. Failed Delivery of Notice. The failure of the Building Official to serve any person required to be served will not invalidate any proceedings as to any other person duly served or relieve any person from any duty or obligation imposed by the provisions of this section.

5. Methods of Service

- a. Location Known. Service of the notice and order must be made upon all persons, either personally or by mailing a copy by certified mail, postage prepaid, to each person at their address as it appears in the Clackamas County tax records, or as otherwise known to the Building Official.
- b. Location Unknown. If no address appears or is known to the Building Official, then a copy of the notice and order must be mailed and addressed to the address of the building involved in the proceedings.

6. Failed Reception of Notice. The failure of any person to receive notice will not affect the validity of any proceedings taken under this section.

7. Date of Service. Service by certified mail will be effective on the date of mailing.

8. Proof of Service. Proof of service of the notice and order must be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail must be affixed to the copy of the notice and order retained by the Building Official.

F. Repair, Vacation, and Demolition

The following standards will be followed by the Building Official in ordering repair, vacation, or demolition of any dangerous building or structure:

1. Any building declared a dangerous building under this chapter must be made to comply with one of the following:

- a. The building must be repaired in accordance with the currently adopted Oregon Specialty Code or other current code applicable to the type of substandard conditions requiring repair;
 - b. The building must be demolished at the option of the building owner; or
 - c. If the building does not constitute an immediate danger to the health, safety, or welfare of the public it may be vacated, secured and maintained against entry.
2. If the condition of a building or structure makes it immediately dangerous to the health, safety, or welfare of the public or its occupants, it will be ordered to be vacated.

G. Abandoned Structure

If a Dangerous Building remains for 180 days from the date of declaration it will be deemed an abandoned structure. An Abandoned Structure will be deemed a nuisance and is subject to enforcement and abatement according to Chapter 8.04 of this code.

H. Violation—Penalty

1. Any person who performs an act prohibited by this chapter, or who fails to perform an act required by this chapter, commits a violation.
2. No person will cause, create, construct, maintain, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, occupy, or otherwise use any dangerous building or cause or permit any dangerous building to be in violation of this chapter.
3. Violations under this title are enforceable under Title 1 of the Milwaukie Municipal Code. The maximum penalty for any violation under this chapter is a fine of one thousand dollars (\$1,000.00) per day. Each day that the violation exists will constitute a separate offense. (Ord. 2180 § 1, 2019; Ord. 2068 § 1, 2013; Ord. 1814 § 2, 1997)

15.04.200 PLANS AND PERMITS

A. Issuance

1. The application, plans, specifications, computations, and other data filed by an applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws or chapters. If the Building Official finds that the work described in application for a permit and the plans, specifications, and other data filed therewith conform to the requirements of this chapter and other pertinent laws and chapters, and that the fees have been paid, the Building Official shall issue a permit therefor to the applicant.
2. When the Building Official issues the permit where plans are required, the Building Official shall endorse in writing or stamp the plans and specifications Reviewed for Code Compliance. Such approved plans and specifications shall not be changed, modified, and altered without authorizations from the Building Official, and all work regulated by the Building Official and this chapter shall be done in accordance with the approved plans.

3. The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this chapter. The issuance of a partial permit shall not constitute or be construed as an assurance that the permit for the entire building or structure will be granted. The holder of a partial permit proceeds with such work at the holder's own risk.

B. Retention of Plans

One set of approved plans, specifications, and computations shall be retained by the Building Official as required by OAR 166-200-0025. One set of approved plans and specifications shall be returned to the applicant, who must keep this plan set on the site of the building or work at all times during which the authorized work is in progress.

C. Validity of Permit

1. The issuance or granting of a permit or approval of plans, specifications, and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other chapter of the jurisdiction or any other federal, State, or local law, statute, rule, regulation, or Oregon Specialty Code.

2. The issuance of a permit based on plans, specifications, and other data shall not prevent the Building Official from thereafter requiring the correction of errors in such plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this chapter or of any other chapters of this jurisdiction.

3. The issuance of a permit based on plans, specifications, and other data shall not be a guarantee by the City or the Building Official of the soundness of such plans or specifications, and shall not be a basis for imposing liability upon the City or any of its agents or employees, specifically including the Building Official.

D. Not Transferable

Absent express approval of the Building Official, a permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

E. Expiration of Plan Reviews

Applications for which no permit is issued will expire as outlined in the appropriate Oregon Specialty Code under which the permit was issued.

F. Permit Expiration, Extension, and Reinstatement

1. Every permit issued by the Building Official under the provisions of this chapter shall expire by limitation and become null and void as outlined in the appropriate Oregon Specialty Code under which the permit was issued. Permits may be extended and reinstated as outlined in the appropriate Oregon Specialty Code under which the permit was issued.

2. In addition to the time limits outlined above, every permit issued by the Building Official shall expire by limitation and become null and void twenty-four (24) months after the date of permit issuance. If the building or work authorized by such permit has

not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

3. Exception

a. At the time of permit issuance the Building Official may approve a period exceeding twenty-four (24) months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within twenty-four (24) months unreasonable.

b. Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one year, on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than twice.

c. Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

(1) The specialty code under which the original permit was issued and other chapters which are enforced by the Building Official have not been amended in any manner which affects the work authorized by the original permit.

(2) No changes have been made or will be made in the original plans and specifications for such work.

(3) If the original permit expired less than one year from the request to reinstate, the fee for a reinstated permit shall be one-half (½) the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, based on the valuation of the work to be completed, shall be required. (Ord. 2068 § 1, 2013; Ord. 1939 § 1, 2004; Ord. 1814 § 2, 1997)

15.04.210 FEES

A. Fees charged under this chapter shall be established by resolution of the City Council.

B. The Building Official may authorize the refunding of fees paid.

C. Building permit valuation shall be determined as outlined in the appropriate Oregon Specialty Code under which the permit is issued. (Ord. 2068 § 1, 2013; Ord. 1814 § 2, 1997)

15.04.215 APPEAL OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY FOR VIOLATION OF THE STRUCTURAL SPECIALTY CODE

A. A person aggrieved by a notice of administrative civil penalty issued by the Building Official for violation of this chapter may, within fifteen (15) days after the date of notice of the action, appeal in writing to the City Manager or designee. The appeal shall be accompanied by a two hundred fifty dollar (\$250.00) appeal fee as established by the City and shall state:

1. The name and address of the appellant;
 2. The nature of the determination being appealed;
 3. The reason the determination is incorrect; and
 4. What the correct determination of the appeal should be.
- B. An appellant who fails to file such an appeal within the time permitted waives the objection. Except as provided in Subsection F of this section, the appeal fee is not refundable.
- C. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.
- D. Unless the appellant and the City agree to a longer period, an appeal shall be heard by the City Manager or City Manager's designee within thirty (30) days of the receipt of the notice of intent to appeal. At least ten (10) days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.
- E. The City Manager or City Manager's designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Manager or City Manager's designee deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.
- F. The City Manager or City Manager's designee shall issue a written decision within ten (10) days of the hearing date. The decision of the City Manager or City Manager's designee after the hearing is final and may include a determination that the appeal fee be refunded to the applicant upon a finding by the City Manager or City Manager's designee that the appeal was not frivolous. (Ord. 2011 § 3, 2010)

15.04.220 APPEAL PROCEDURE

- A. Any person aggrieved by a decision of the Building Official other than the imposition of an administrative civil penalty, made pursuant to the following specialty codes may appeal that decision to the following:
1. Electrical Specialty Code
Appeals may be made to the State of Oregon, Building Codes Division, Chief Electrical Inspector.
 2. Structural Specialty Code
Appeals may be made to the State of Oregon, Building Codes Structures Board.
 3. Mechanical Specialty Code
Appeals may be made to the State of Oregon, Building Codes Structures Board.
 4. Plumbing Specialty Code
Appeals may be made to the State of Oregon, Building Codes Division.
 5. One and Two Family Dwelling Specialty Code
Appeals may be made to the State of Oregon, Building Codes Structures Board.

6. Manufactured Dwelling Code

Appeals may be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

7. Recreational Park and Organizational Camp Regulations

Appeals may be made to the State of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

8. All other appeals may be made to the appropriate board or agency.

B. An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with the Building Official. (Ord. 2011 § 4, 2010; Ord. 1814 § 2, 1997)

15.04.230 VALIDITY

If any section, paragraph, subdivision, clause, sentence, or provisions of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this chapter, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this chapter notwithstanding the parts to be declared unconstitutional and invalid. (Ord. 1814 § 2, 1997)

15.04.240 PENALTIES

A. Any person violating any of the provisions of this chapter for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed one thousand dollars (\$1,000.00) per violation. Each day that a violation exists is a separate offense.

B. The administrative civil penalty referred to in Subsection 15.04.070.C shall be an amount set by the Building Official not to exceed five thousand dollars (\$5,000.00) or one thousand dollars (\$1,000.00) per day for continuous violation. (Ord. 2011 § 5, 2010; Ord. 1814 § 2, 1997)

15.04.250 WORK WITHOUT A PERMIT/INVESTIGATION FEES/PENALTIES

A. Whenever any work for which a permit is required by this chapter has been commenced without first obtaining such permit, a special investigation shall be made before a permit may be issued for such work.

B. An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this chapter nor from any penalty prescribed by law. (Ord. 1814 § 2, 1997)

2018

Attachment 3

IPMC®

CODE AND COMMENTARY

The complete **IPMC** with corresponding commentary after each section.



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PREFACE

The principal purpose of the Commentary is to provide a basic volume of knowledge and facts relating to existing structures as it pertains to the regulations regarding property maintenance set forth in the 2018 *International Property Maintenance Code*[□]. The person who is serious about effectively regulating property maintenance will find the Commentary to be a reliable data source and reference to almost all aspects of property maintenance.

As a follow-up to the *International Property Maintenance Code*, we offer a companion document, the 2018 *IPMC*[®] *Code and Commentary*. The basic appeal of the Commentary is thus: it provides in a small package and at reasonable cost thorough coverage of many issues likely to be dealt with when using the *International Property Maintenance Code*—then supplements that coverage with historical and technical background. Reference lists, information sources and bibliographies are also included.

Throughout all of this, strenuous effort has been made to keep the vast quantity of material accessible and its method of presentation useful. With a comprehensive yet concise summary of each section, the Commentary provides a convenient reference for property maintenance regulations. In the chapters that follow, discussions focus on the full meaning and implications of the code text. Guidelines suggest the most effective method of application, and the consequences of not adhering to the code text. Illustrations are provided to aid understanding; they do not necessarily illustrate the only methods of achieving code compliance.

The format of the Commentary includes the full text of each section, table and figure in the code, followed immediately by the commentary applicable to that text. As stated in the preface of the 2018 *International Property Maintenance Code*, the content of sections in the code that begin with a letter designation (i.e., 502.1) are maintained by another code development committee. Each section's narrative includes a statement of its objective and intent, and usually includes a discussion about why the requirement commands the conditions set forth. Code text and commentary text are easily distinguished from each other. All code text is shown as it appears in the *International Property Maintenance Code*, and all commentary is indented below the code text and begins with the symbol[□].

Readers should note that the Commentary is to be used in conjunction with the *International Property Maintenance Code* and not as a substitute for the code. The Commentary is advisory only; the code official alone possesses the authority and responsibility for interpreting the code.

Comments and recommendations are encouraged, for through your input we can improve future editions. Please direct your comments to the Codes and Standards Development Department at the Chicago District Office.

For the complete errata history of this code, please visit: https://www.iccsafe.org/errata-central/

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Chapter 1:

Scope and Administration

PART 1 — SCOPE AND APPLICATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the *International Property Maintenance Code* of [NAME OF JURISDICTION], hereinafter referred to as “this code.”

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, a reasonable level of safety from fire and other hazards, and for a reasonable level of 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 insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired 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. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

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 constructed, altered or repaired shall be maintained in good working order. An *owner*, owner’s authorized agent, *operator* or *occupant* shall not cause any service, facility, equipment or utility that is required under this section to be removed from, 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* authorized 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*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

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 that is dangerous, unsafe and insanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations that 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 instructions.

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

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

102.7.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

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*.

102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

103.1 General. The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the *code official*.

103.2 Appointment. The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

103.4 Liability. The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

103.4.1 Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

[JURISDICTION TO INSERT APPROPRIATE SCHEDULE.]

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Inspections. The *code official* shall make all of the required inspections or, shall accept reports of inspection by *approved* agencies or individuals. 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 on unusual technical issues that arise, subject to the approval of the appointing authority.

104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the

code official has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the structure or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such structure or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner*, owner's authorized agent or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

104.4 Identification. The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

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

104.6 Department records. The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

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 upon application of the *owner* or *owner's* authorized agent, provided that the *code official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

105.2 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design 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, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons why 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 tests to be made as evidence of compliance without expense to the jurisdiction.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of 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 Used material and equipment. Materials that are reused shall comply with the requirements of this code for new materials. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *code official*.

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

105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

106.2 Notice of violation. The *code official* shall serve a notice of violation or order in accordance with Section 107.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 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*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a 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 given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall comply with Section 108.3.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

- 1) Be in writing.
- 2) Include a description of the real estate sufficient for identification.
- 3) Include a statement of the violation or violations and why the notice is being issued.
- 4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
- 5) Inform the property owner or owner's authorized agent of the right to appeal.
- 6) Include a statement of the right to file a lien in accordance with Section 106.3.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is: delivered personally, or sent by certified or first-class mail addressed to the last known address. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

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

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

108.1 General. When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

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 possible.

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 that 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.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human *occupancy* 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 or rat 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.

108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

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 jurisdiction 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 insanitary, 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 Closing of vacant structures. If the structure is vacant and unfit for human habitation and *occupancy*, 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 owner's authorized agent to close up the *premises* 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 estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

108.2.1 Authority to disconnect service utilities. 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. 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 service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, owner's authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

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*, 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 be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the *owner*, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

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. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be 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*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner*, owner's authorized agent or 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.

108.7 Record. The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

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 that 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.

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; and shall cause such other action to be taken as the *code official* 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 order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. Any person 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. The *code official* shall order the *owner* or owner's authorized agent of any *premises* upon which is located any structure, which in the *code official's* or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* 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 owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

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

110.3 Failure to comply. If the *owner* of a *premises* or owner's authorized agent fails to comply with a demolition order within the time prescribed, the *code official* shall 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 estate upon which the structure is located and shall be a lien upon such real estate.

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

SECTION 111 MEANS OF APPEAL

111.1 Application for appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

111.2 Membership of board. The board of appeals shall consist of not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *code official* shall be an ex-officio member but shall not vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

111.2.1 Alternate members. The chief appointing authority shall appoint not less than two alternate

members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

111.2.2 Chairman. The board shall annually select one of its members to serve as chairman.

111.2.3 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

111.2.4 Secretary. The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

111.2.5 Compensation of members. Compensation of members shall be determined by law.

111.3 Notice of meeting. The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

111.4 Open hearing. Hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board member- ship.

111.4.1 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

111.5 Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a post- ponement of the hearing.

111.6 Board decision. The board shall modify or reverse the decision of the *code official* only by a concurring vote of a majority of the total number of appointed board members.

111.6.1 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the *code official*.

111.6.2 Administration. The *code official* shall take immediate action in accordance with the decision of the board.

111.7 Court review. Any person, whether or not a previ- ous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

111.8 Stays of enforcement. Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

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 issu- ance 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

Chapter 2: Definitions

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words “*dwelling unit*,” “*dwelling*,” “*premises*,” “*building*,” “*rooming house*,” “*rooming unit*,” “*housekeeping unit*” or “*story*” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Acceptable to the *code official*.

BASEMENT. That portion of a building that is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

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

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The *easement* shall be permitted to be for use under, on or above said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of owners or operators of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and

consumption of food.

[BE] GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

[BG] HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.*

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating that does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition that could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rodents, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle that cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, *approved* agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit, rooming unit*, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or *structure*.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* that is let or offered for *occupancy*.

OWNER. Any person, agent, *operator*, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

PREMISES. A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

PUBLIC WAY. Any street, alley or other parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated or otherwise permanently appropriated to the public for public use; and has a clear width and height of not less than 10 feet (3048 mm).

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed.

TENANT. A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and that shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

Chapter 3: General

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* they occupy and control.

301.3 Vacant structures and land. Vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. *Exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* that such *occupant* occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. *Premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

302.3 Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. *Premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of [JURIS- DICTION TO INSERT HEIGHT IN INCHES]. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

302.5 Rodent harborage. Structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blow- ers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly on abutting or adjacent public or private property or that of another *tenant*.

302.7 Accessory structures. Accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any *premises*, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

302.8 Defacement of property. A person shall not willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 303

SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. An existing pool enclosure shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight.
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from [DATE] to [DATE], 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 minimum 16 mesh per inch (16 mesh per 25 mm), 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.

304.15 Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house*, *housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.

2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

305.2 Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 306 COMPONENT SERVICEABILITY

306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system.
 - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
 - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
 - 1.4. Inadequate soil as determined by a geotechnical investigation.
 - 1.5. Where the allowable bearing capacity of the soil is in doubt.
 - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. *Deterioration*.
 - 2.2. *Ultimate deformation*.
 - 2.3. Fractures.
 - 2.4. Fissures.
 - 2.5. Spalling.
 - 2.6. Exposed reinforcement.
 - 2.7. *Detached*, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. *Deterioration*.
 - 3.2. Corrosion.
 - 3.3. Elastic deformation.
 - 3.4. *Ultimate deformation*.
 - 3.5. Stress or strain cracks.
 - 3.6. Joint fatigue.
 - 3.7. *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration*.

- 4.2. *Ultimate deformation.*
- 4.3. Fractures in masonry or mortar joints.
- 4.4. Fissures in masonry or mortar joints.
- 4.5. Spalling.
- 4.6. Exposed reinforcement.
- 4.7. *Detached*, dislodged or failing connections.
- 5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration.*
 - 5.2. Elastic deformation.
 - 5.3. *Ultimate deformation.*
 - 5.4. Metal fatigue.
 - 5.5. *Detached*, dislodged or failing connections.
- 6. Wood that has been subjected to any of the following conditions:
 - 6.1. Ultimate deformation.
 - 6.2. Deterioration.
 - 6.3. Damage from insects, rodents and other ver- min.
 - 6.4. Fire damage beyond charring.
 - 6.5. Significant splits and checks.
 - 6.6. Horizontal shear cracks.
 - 6.7. Vertical shear cracks.
 - 6.8. Inadequate support.
 - 6.9. Detached, dislodged or failing connections.
 - 6.10. Excessive cutting and notching.

Exceptions:

- 1. Where substantiated otherwise by an *approved* method.
- 2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

SECTION 307 HANDRAILS AND GUARDRAILS

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, bal- cony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

SECTION 308 RUBBISH AND GARBAGE

308.1 Accumulation of rubbish or garbage. *Exterior prop- erty* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsi- ble for the removal of *rubbish*.

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

308.3 Disposal of garbage. Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Garbage facilities. The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

SECTION 309 PEST ELIMINATION

309.1 Infestation. Structures shall be kept free from insect and rodent *infestation*. Structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

309.2 Owner. The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

309.3 Single occupant. The *occupant* of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the *premises*.

309.4 Multiple occupancy. The *owner* of a structure containing two or more *dwelling units*, a multiple occupancy, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

309.5 Occupant. The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for pest elimination.

Chapter 4:

Light, Ventilation and Occupancy Limitations

SECTION 401 GENERAL

401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a structure.

401.2 Responsibility. The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

401.3 Alternative devices. In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

SECTION 402 LIGHT

402.1 Habitable spaces. Every *habitable space* shall have not less than one window of *approved size* facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, or not less than 25 square feet (2.33 m²), whichever is greater. The exterior glazing area shall be based on the total floor area being served.

402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, interior and exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 foot candle (11 lux) at floors, landings and treads.

402.3 Other spaces. Other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

SECTION 403 VENTILATION

403.1 Habitable spaces. Every *habitable space* shall have not less than one openable window. The total openable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Section 402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

403.2 Bathrooms and toilet rooms. Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical *ventilation* system

from a *bathroom* or *toilet room* shall discharge to the outdoors and shall not be recirculated.

403.3 Cooking facilities. Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

Exceptions:

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

SECTION 404 OCCUPANCY LIMITATIONS

404.1 Privacy. *Dwelling units*, hotel units, *housekeeping units*, *rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

404.2 Minimum room widths. A habitable room, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. *Habitable spaces*, hall- ways, corridors, laundry areas, *bathrooms*, *toilet rooms* and habitable *basement* areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not greater than 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over not less than one- third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

404.4 Bedroom and living room requirements. Every *bed- room* and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

404.4.1 Room area. Every living room shall contain not less than 120 square feet (11.2 m²) and every bedroom shall contain not less than 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m²) of floor area for each occupant thereof.

404.4.2 Access from bedrooms. *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

Exception: Units that contain fewer than two *bedrooms*.

404.4.3 Water closet accessibility. Every *bedroom* shall have access to not less than one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to not less than one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

404.5 Overcrowding. *Dwelling units* shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

TABLE 404.5 MINIMUM AREA REQUIREMENTS

SPACE	MINIMUM AREA IN SQUARE		
	1-2	3-5	6 or more
Living room ^{a, b}	120	120	150
Dining room ^{a, b}	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.0929 m².

- a. See Section 404.5.2 for combined living room/dining room spaces.
- b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.6 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping **Efficiency unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by not more than two *occu- pants* shall have a minimum clear floor area of 220 square feet (20.4 m²). A unit occupied by three *occu- pants* shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

404.7 Food preparation. Spaces to be occupied for food preparation purposes shall contain suitable space and equip- ment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

Chapter 5:

Plumbing Facilities and Fixture Requirements

SECTION 501 GENERAL

501.1 Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

501.2 Responsibility. The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* that does not comply with the requirements of this chapter.

SECTION 502 REQUIRED FACILITIES

502.1 Dwelling units. Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

502.2 Rooming houses. Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 *occupants*.

502.4 Employees' facilities. Not less than one water closet, one lavatory and one drinking facility shall be available to employees.

502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.

SECTION 503 TOILET ROOMS

503.1 Privacy. *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

503.2 Location. *Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

503.3 Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

503.4 Floor surface. In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

SECTION 504 PLUMBING SYSTEMS AND FIXTURES

504.1 General. Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, *deterioration* or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

SECTION 505 WATER SYSTEM

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

505.2 Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

505.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°F (43°C). A gas-burning water heater shall not be located in any *bathroom, toilet room, bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

505.5 Non-potable water reuse systems. Non-potable water reuse systems and rainwater collection and conveyance systems shall be maintained in a safe and sanitary condition. Where such systems are not properly maintained, the systems shall be repaired to provide for safe and sanitary conditions, or the system shall be abandoned in accordance with Section 505.5.1.

505.5.1 Abandonment of systems. Where a non-potable water reuse system or a rainwater collection and distribution system is not maintained or the owner ceases use of the system, the system shall be abandoned in accordance with Section 1301.10 of the *International Plumbing Code*.

SECTION 506 SANITARY DRAINAGE SYSTEM

506.1 General. Plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

506.2 Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

506.3 Grease interceptors. Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the *code official*.

SECTION 507 STORM DRAINAGE

507.1 General. Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.

Chapter 6:

Mechanical and Electrical Requirements

SECTION 601 GENERAL

601.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

601.2 Responsibility. The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that does not comply with the requirements of this chapter.

SECTION 602 HEATING FACILITIES

602.1 Facilities required. Heating facilities shall be provided in structures as required by this 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*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

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

602.3 Heat supply. Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 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 [DATE] to [DATE] to maintain a minimum temperature of 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.

602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 603 MECHANICAL EQUIPMENT

603.1 Mechanical equipment and appliances. Mechanical equipment, appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

603.2 Removal of combustion products. Fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances that are *labeled* for unvented operation.

603.3 Clearances. Required clearances to combustible materials shall be maintained.

603.4 Safety controls. Safety controls for fuel-burning equipment shall be maintained in effective operation.

603.5 Combustion air. A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

SECTION 604 ELECTRICAL FACILITIES

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

604.3.1 Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

604.3.1.1 Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated not more than 600 volts or less.
2. Busway, rated not more than 600 volts.
3. Panelboards, rated not more than 600 volts.
4. Switchboards, rated not more than 600 volts.
5. Fire pump controllers, rated not more than 600 volts.
6. Manual and magnetic motor controllers.
7. Motor control centers.
8. Alternating current high-voltage circuit breakers.
9. Low-voltage power circuit breakers.
10. Protective relays, meters and current transformers.
11. Low- and medium-voltage switchgear.
12. Liquid-filled transformers.
13. Cast-resin transformers.
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water.
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water.
16. Luminaires that are listed as submersible.
17. Motors.
18. Electronic control, signaling and communication equipment.

604.3.2 Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

604.3.2.1 Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

SECTION 605 ELECTRICAL EQUIPMENT

605.1 Installation. Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

605.2 Receptacles. Every *habitable space* in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain not less than one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

605.3 Luminaires. Every public hall, interior stairway, *toilet room*, kitchen, *bathroom*, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

605.4 Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

SECTION 606

ELEVATORS, ESCALATORS AND DUMBWAITERS

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the *code official*. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

606.2 Elevators. In buildings equipped with passenger elevators, not less than one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 607 DUCT SYSTEMS

607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

Chapter 7:

Fire Safety Requirements

SECTION 701 GENERAL



701.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

701.2 Responsibility. The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

SECTION 702 MEANS OF EGRESS

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

702.2 Aisles. The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

702.3 Locked doors. Means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided that the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

SECTION 703

FIRE-RESISTANCE RATING

703.1 Fire-resistance-rated assemblies. The provisions of this chapter shall govern maintenance of the materials, systems and assemblies used for structural fire resistance and fire-resistance-rated construction separation of adjacent spaces to safeguard against the spread of fire and smoke within a building and the spread of fire to or from buildings.

703.2 Unsafe conditions. Where any components are not maintained and do not function as intended or do not have the fire resistance required by the code under which the building was constructed or altered, such components or portions thereof shall be deemed unsafe conditions in accordance with Section 111.1.1 of the *International Fire Code*. Components or portions thereof determined to be unsafe shall be repaired or replaced to conform to that code under which the building was constructed or altered. Where the condition of components is such that any building, structure or portion thereof presents an imminent danger to the occupants of the building, structure or portion thereof, the fire code official shall act in accordance with Section 111.2 of the *International Fire Code*.

703.3 Maintenance. The required fire-resistance rating of fire-resistance-rated construction, including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and joint systems, shall be maintained. Such elements shall be visually inspected annually by the owner and repaired, restored or replaced where damaged, altered, breached or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer and any other reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of approved construction meeting the fire protection

requirements for the assembly.

703.3.1 Fire blocking and draft stopping. Required fire blocking and draft stopping in combustible concealed spaces shall be maintained to provide continuity and integrity of the construction.

703.3.2 Smoke barriers and smoke partitions. Required smoke barriers and smoke partitions shall be maintained to prevent the passage of smoke. Openings protected with approved smoke barrier doors or smoke dampers shall be maintained in accordance with NFPA 105.

703.3.3 Fire walls, fire barriers, and fire partitions. Required fire walls, fire barriers and fire partitions shall be maintained to prevent the passage of fire. Openings protected with approved doors or fire dampers shall be maintained in accordance with NFPA 80.

703.4 Opening protectives. Opening protectives shall be maintained in an operative condition in accordance with NFPA 80. The application of field-applied labels associated with the maintenance of opening protectives shall follow the requirements of the approved third-party certification organization accredited for listing the opening protective. Fire doors and smoke barrier doors shall not be blocked or obstructed, or otherwise made inoperable. Fusible links shall be replaced whenever fused or damaged. Fire door assemblies shall not be modified.

703.4.1 Signs. Where required by the code official, a sign shall be permanently displayed on or near each fire door in letters not less than 1 inch (25 mm) high to read as follows:

1. For doors designed to be kept normally open: FIRE DOOR – DO NOT BLOCK.
2. For doors designed to be kept normally closed: FIRE DOOR – KEEP CLOSED.

703.4.2 Hold-open devices and closers. Hold-open devices and automatic door closers shall be maintained. During the period that such a device is out of service for repairs, the door it operates shall remain in the closed position.

703.4.3 Door operation. Swinging fire doors shall close from the full-open position and latch automatically. The door closer shall exert enough force to close and latch the door from any partially open position.

703.5 Ceilings. The hanging and displaying of salable goods and other decorative materials from acoustical ceiling systems that are part of a fire-resistance-rated horizontal assembly shall be prohibited.

703.6 Testing. Horizontal and vertical sliding and rolling fire doors shall be inspected and tested annually to confirm operation and full closure. Records of inspections and testing shall be maintained.

703.7 Vertical shafts. Interior vertical shafts, including stairways, elevator hoistways and service and utility shafts, which connect two or more stories of a building shall be enclosed or protected as required in Chapter 11 of the *International Fire Code*. New floor openings in existing buildings shall comply with the *International Building Code*.

703.8 Opening protective closers. Where openings are required to be protected, opening protectives shall be maintained self-closing or automatic-closing by smoke detection. Existing fusible-link-type automatic door-closing devices shall be replaced if the fusible link rating exceeds 135°F (57°C).

SECTION 704

FIRE PROTECTION SYSTEMS

704.1 Inspection, testing and maintenance. Fire detection, alarm and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in accordance with the *International Fire Code* in an operative condition at all times, and shall be replaced or repaired where defective.

704.1.1 Installation. Fire protection systems shall be maintained in accordance with the original installation standards for that system. Required systems shall be extended, altered or augmented as necessary to maintain and continue protection where the building is altered or enlarged. Alterations to fire protection systems shall be done in accordance with applicable standards.

704.1.2 Required fire protection systems. Fire protection systems required by this code, the *International Fire Code* or the *International Building Code* shall be installed, repaired, operated, tested and maintained in accordance with this code. A fire protection system for which a design option, exception or reduction to the provisions of this code, the *International Fire Code* or the *International Building Code* has been granted shall be considered to be a required system.

704.1.3 Fire protection systems. Fire protection systems shall be inspected, maintained and tested in accordance with the following *International Fire Code* requirements.

1. Automatic sprinkler systems, see Section 903.5.
2. Automatic fire-extinguishing systems protecting commercial cooking systems, see Section 904.12.5.

3. Automatic water mist extinguishing systems, see Section 904.11.
4. Carbon dioxide extinguishing systems, see Section 904.8.
5. Carbon monoxide alarms and carbon monoxide detection systems, see Section 915.6.
6. Clean-agent extinguishing systems, see Section 904.10.
7. Dry-chemical extinguishing systems, see Section 904.6.
8. Fire alarm and fire detection systems, see Section 907.8.
9. Fire department connections, see Sections 912.4 and 912.7.
10. Fire pumps, see Section 913.5.
11. Foam extinguishing systems, see Section 904.7.
12. Halon extinguishing systems, see Section 904.9.
13. Single- and multiple-station smoke alarms, see Section 907.10.
14. Smoke and heat vents and mechanical smoke removal systems, see Section 910.5.
15. Smoke control systems, see Section 909.20.
16. Wet-chemical extinguishing systems, see Section 904.5.

704.2 Standards. Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 704.2 and as required in this section.

**TABLE 704.2
FIRE PROTECTION SYSTEM MAINTENANCE STANDARDS**

SYSTEM	STANDARD
Portable fire extinguishers	NFPA 10
Carbon dioxide fire-extinguishing	NFPA 12
Halon 1301 fire-extinguishing systems	NFPA 12A
Dry-chemical extinguishing systems	NFPA 17
Wet-chemical extinguishing systems	NFPA 17A
Water-based fire protection systems	NFPA 25
Fire alarm systems	NFPA 72
Smoke and heat vents	NFPA 204
Water-mist systems	NFPA 750
Clean-agent extinguishing systems	NFPA 2001

704.2.1 Records. Records shall be maintained of all system inspections, tests and maintenance required by the referenced standards.

704.2.2 Records information. Initial records shall include the: name of the installation contractor; type of components installed; manufacturer of the components; location and number of components installed per floor; and manufacturers' operation and maintenance instruction manuals. Such records shall be maintained for the life of the installation.

704.3 Systems out of service. Where a required fire protection system is out of service, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, either the building shall be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service. Where utilized, fire watches shall be provided with not less than one approved means for notification of the fire department and shall not have duties beyond performing constant patrols of the protected premises and keeping watch for fires. Actions shall be taken in accordance with Section 901 of the *International Fire Code* to bring the systems back in service.

704.3.1 Emergency impairments. Where unplanned impairments of fire protection systems occur, appropriate emergency action shall be taken to minimize potential injury and damage. The impairment coordinator shall implement the steps outlined in Section 901.7.4 of the *International Fire Code*.

704.4 Removal of or tampering with equipment. It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system or other fire appliance required by this code except for the purposes of extinguishing fire, training, recharging or making necessary repairs.

704.4.1 Removal of or tampering with appurtenances. Locks, gates, doors, barricades, chains, enclosures, signs, tags and seals that have been installed by or at the direction of the fire code official shall not be removed, unlocked, destroyed or tampered with in any manner.

704.4.2 Removal of existing occupant-use hose lines. The fire code official is authorized to permit the removal of existing occupant-use hose lines where all of the following apply:

1. The installation is not required by the *International Fire Code* or the *International Building Code*.
2. The hose line would not be utilized by trained personnel or the fire department.
3. The remaining outlets are compatible with local fire department fittings.

704.4.3 Termination of monitoring service. For fire alarm systems required to be monitored by the *International Fire Code*, notice shall be made to the fire code official whenever alarm monitoring services are terminated. Notice shall be made in writing by the provider of the monitoring service being terminated.

704.5 Fire department connection. Where the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an *approved* sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the fire code official.

704.5.1 Fire department connection access. Ready access to fire department connections shall be maintained at all times and without obstruction by fences, bushes, trees, walls or any other fixed or movable object. Access to fire department connections shall be approved by the fire chief.

Exception: Fences, where provided with an access gate equipped with a sign complying with the legend requirements of Section 912.5 of the *International Fire Code* and a means of emergency operation. The gate and the means of emergency operation shall be approved by the fire chief and maintained operational at all times.

704.5.2 Clear space around connections. A working space of not less than 36 inches (914 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided and maintained in front of and to the sides of wall-mounted fire department connections and around the circumference of free-standing fire department connections.

704.6 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

704.6.1 Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.

Exceptions:

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.6.1.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the *means of egress* from the sleeping area to the door leading from the *sleeping unit*.
3. In each story within the *sleeping unit*, including basements. For *sleeping units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.2 Groups R-2, R-3, R-4 and I-1. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of *occupant load* at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit*, including *basements* but not including crawl spaces and uninhabitable attics. In *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.3 Installation near cooking appliances. Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 704.6.1.1 or 704.6.1.2.

1. Ionization smoke alarms shall not be installed less than 20 feet (6096 mm) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

704.6.1.4 Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bath tub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

704.6.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual *dwelling* or *sleeping unit*, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings that are not undergoing *alterations*, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where *alterations* or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

704.6.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exceptions:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing *alterations* or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available that could provide access for building wiring without the removal of interior finishes.

704.6.4 Smoke detection system. Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:

1. The fire alarm system shall comply with all applicable requirements in Section 907 of the *International Fire Code*.
2. Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the *dwelling* or *sleeping unit* in accordance with Section 907.5.2 of the *International Fire Code*.
3. Activation of a smoke detector in a *dwelling* or *sleeping unit* shall not activate alarm notification appliances outside of the *dwelling* or *sleeping unit*, provided that a supervisory signal is generated and monitored in

accordance with the *International Fire Code*.

704.7 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms installed in one- and two-family dwellings shall be replaced not more than 10 years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacture cannot be determined.

SECTION 705

CARBON MONOXIDE ALARMS AND DETECTION

705.1 General. Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the *International Fire Code*, except that alarms in dwellings covered by the *International Residential Code* shall be installed in accordance with Section R315 of that code.

705.2 Carbon monoxide alarms and detectors. Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

REFERENCED STANDARDS

User note:

About this chapter: This code contains numerous references to standards promulgated by other organizations that are used to provide requirements for materials and methods of construction. Chapter 8 contains a comprehensive list of all standards that are referenced in this code. These standards, in essence, are part of this code to the extent of the reference to the standard.

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

ASME	American Society of Mechanical Engineers Two Park Avenue New York, NY 10016-5990
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ASME A17.1—2016/CSA B44—16: Safety Code for Elevators and Escalators
606.1

ASTM	ASTM International 100 Barr Harbor Drive, P.O. Box C700 West Conshohocken, PA 19428-2959
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F1346—91 (2010): Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs
303.2

ICC International Code Council
500 New Jersey Avenue, NW
6th Floor Washington, DC 20001

IBC—18: International Building Code®
102.3, 201.3, 304.1.1, 305.1.1, 306.1.1, 401.3, 604.3.1.1, 604.3.2.1, 702.3, 704.4.2

IECC—18: International Energy Conservation Code®
102.3

IEBC—18: International Existing Building Code®
102.3, 201.3, 304.1.1, 305.1.1, 306.1.1

IFC—18: International Fire Code®
102.3, 201.3, 604.3.1.1, 702.1, 702.2, 704.1, 704.1.2, 704.1.3, 704.3, 704.3.1,
704.4.2, 704.4.3, 704.5.1, 704.6.4, 705.1

IFGC—18: International Fuel Gas Code®
102.3, 201.3

IMC—18: International Mechanical Code®
102.3, 201.3

IPC—18: International Plumbing Code®
102.3, 201.3, 502.5, 505.1, 505.5.1, 602.2, 602.3

IRC—18: International Residential Code®
102.3, 201.3

IZC—18: International Zoning Code®
102.3, 201.3

NFPA National Fire Protection Association
1 Batterymarch Park
Quincy, MA 02169-7471

10—17: Standard for Portable Fire Extinguishers

Table 704.2

12—15: Standard on Carbon Dioxide Extinguishing Systems

Table 704.2

12A—15: Standard on Halon 1301 Fire Extinguishing Systems

Table 704.2

17—17: Standard for Dry Chemical Extinguishing Systems

Table 704.2

17A—17: Standard for Wet Chemical Extinguishing Systems

Table 704.2

25—17: Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems

Table 704.2

70—17: National Electrical Code

102.3, 201.3, 604.2

72—16: National Fire Alarm and Signaling Code

Table 704.2

80—16: Standard for Fire Doors and Other Opening Protectives

703.3.3, 703.4

105—16: Standard for Smoke Door Assemblies and Other Opening Protectives

703.3.2

204—15: Standard for Smoke and Heat Venting

Table 704.2

720—15: Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment

705.2

750—14: Standard on Water Mist Fire Protection Systems

Table 704.2

2001—15: Standard on Clean Agent Fire Extinguishing Systems

Table 704.2

UL Underwriters Laboratories, LLC
333 Pfingsten Road
Northbrook, IL 60062

268—09: Smoke Detectors for Fire Alarm Systems

704.6.4

Appendix A: Boarding Standard

User Note:

Appendix A provides minimum specifications for boarding a structure. This can be utilized by a jurisdiction as a set of minimum requirements in order to result in consistent boarding quality. These requirements also provide a reasonable means to eliminate having to approve numerous methods or materials for the boarding and securing of a structure. It is important to note that the provisions of Appendix A are not mandatory unless specifically referenced in the adopting ordinance of the jurisdiction having authority.

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

A101 GENERAL

A101.1 General. Windows and doors shall be boarded in an *approved* manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

A102 MATERIALS

A102.1 Boarding sheet material. Boarding sheet material shall be minimum $\frac{1}{2}$ -inch-thick (12.7 mm) wood structural panels complying with the *International Building Code*.

A102.2 Boarding framing material. Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

A102.3 Boarding fasteners. Boarding fasteners shall be minimum $\frac{3}{8}$ -inch-diameter (9.5 mm) carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

A103 INSTALLATION

A103.1 Boarding installation. The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

A103.2 Boarding sheet material. The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

A103.3 Windows. The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches (152 mm) minimum above the bottom and below the top of the

window opening. The framing and boarding shall be pre-drilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

A103.4 Door walls. The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

A103.5 Doors. Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manner.

A104 REFERENCED STANDARD

IBC—18	International Building Code	A102.1, A102.2, A102.3
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WS104

101.1 thru 101.3 is addressed in 15.04.050

Added 101.4 (severability) to 15.04.050 scope.

102.1 covered in 15.04.050 C

102.2 covered in 15.04.130, language updated

102.3 covered in 15.04.170

102.4 thru 102.6 not included

102.7 covered in 15.04.170

102.7.1 thru 102.10 covered in 15.04.150

Part 2 – 103.1 thru 103.5 property maintenance, not applicable to the dangerous building code update

104.1 Inspections covered by 15.04.070 and 15.04.180 (C) (1)

104.2 Inspections covered by 15.04.160, language updated

104.3 Right of entry covered 15.04.080 and 15.04.180 (C)(2)

104.4 Identification – not currently covered in the MMC, req'd in ossc and orsc

104.5 Notices and orders – not currently covered in the MMC, req'd per state retention laws

104.6 Department records – not currently covered in the MMC req'd per state retention laws

Section 105 is covered in the Oregon Structural Specialty Code (OSSC) and the Oregon Residential Specialty Code (ORSC)

Section 106 violations is covered by 15.04.070 and 15.04.180(H)

Section 107 notices and orders covered by 15.04.180(E)(2) Language updated to the new lang

Section 108.1 Unsafe structures, general, covered by 15.04.180(B)

Sections 108.1.1 thru 108.1.4 definitions, added to 15.04.180(A)

Section 108.1.5 dangerous bldg conditions covered in 15.04.180(B) Language updated

Section 108.2 closing of vacant structures, language added to 15.04.180(C) new section 3

Sections 108.3 thru 108.4.1 posting the notice are covered in 15.04.180(C)(3) now section 4

Section 108.5 covered in 15.04.180(C)(5) new section 6

Section 108.6 abatement methods covered in 15.04.180(E) language updated

Section 108.7 record – records are kept as per state retention laws

Section 109 Imminent danger covered in 15.04.180(D) refers back to 1.08 of MMC

Section 110 demolition is covered as an option in 15.04.180(F)

Section 111 means of appeal is covered in 15.04.030

Section 112 stop work order is covered by 15.04.090

Everything after chapter 2 is property maintenance which is not covered by this code section or this update.

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Jan. 13, 2021

Reviewed: Leila Aman, Community Development Director, and
Laura Weigel, Planning Manager

From: Vera Kolias, Senior Planner

Subject: **Comprehensive Plan Implementation – Project Update – Code Concepts**

ACTION REQUESTED

None. This is a project update.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[December 1, 2020](#): Staff provided Council with a project update.

ANALYSIS

This update relates to the detailed code audit and initial discussion of housing related code concepts portions of the Comprehensive Plan implementation project. The code audit and findings will set the stage for the detailed code concept development (see discussion below).

Project Background

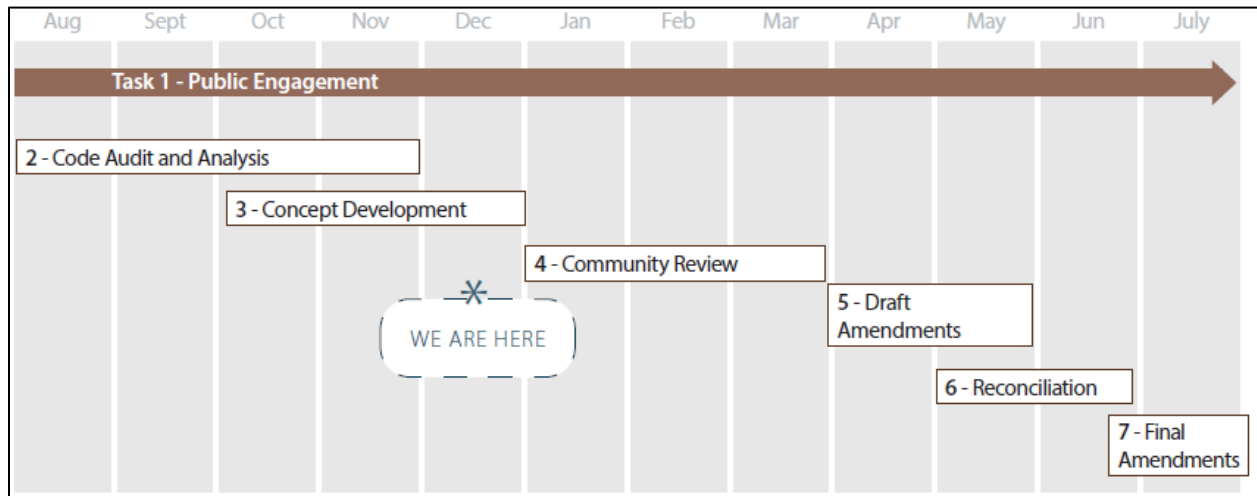
Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan (Plan) policies call for expanded housing opportunities throughout the city and House Bill 2001 (HB 2001), passed by the state legislature in July 2019, requires the expansion of middle housing options. In November 2019, Council discussed how to proceed with code amendments after the updated plan was adopted, setting the stage for the recently initiated implementation project.

The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land. The outcome will be code amendments that balance the city's goal for a 40% tree canopy and implementation of the housing policies outlined in the plan in compliance with HB 2001.

The scope of work for this project includes the following tasks:

1. Public Engagement Strategy
2. Map and Code Audit and Analysis
3. Detailed Concept Development
4. Community Review and Testing
5. Draft Code Changes and Map Amendments
6. Code and Map Review and Reconciliation
7. Final Code and Map Changes and Adoption

Project Schedule



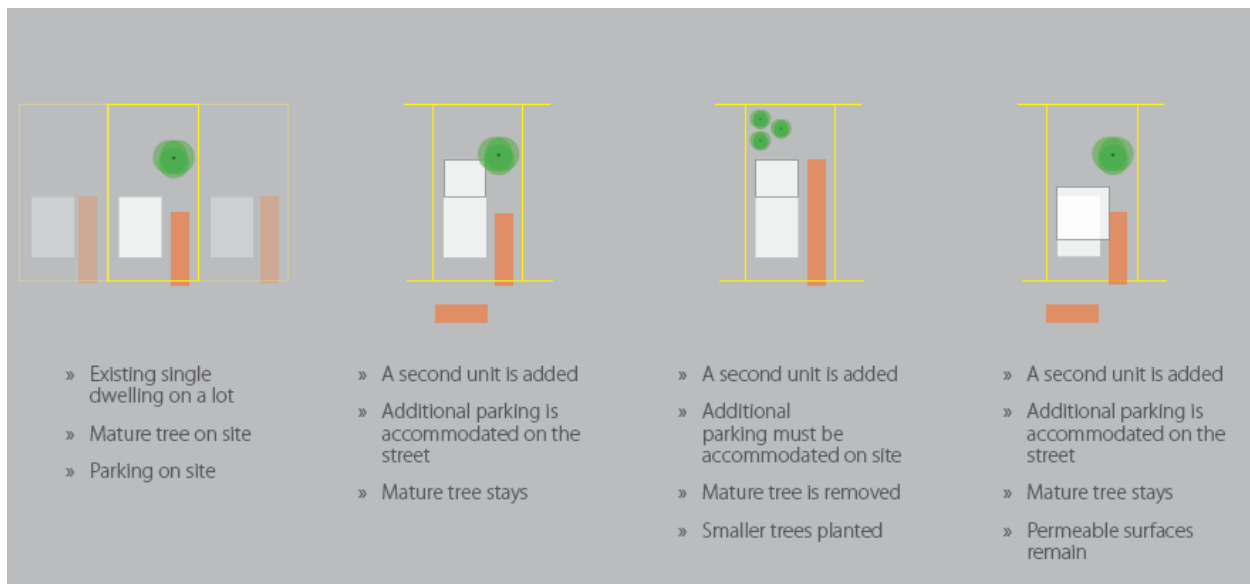
Code Audit: The purpose of the code audit is to identify which zoning and other code provisions fall short of, or prevent the city from, meeting the goals of Comprehensive Plan and, by extension, the requirements of HB 2001 (see Attachment 1 for the summary report). The code audit provides the basis for the development of the code concepts that will address the findings of the code audit.

Code Concepts: The code concepts are ways to approach code amendments that will achieve the goals of the project and will be organized into a set of alternatives that can be evaluated and presented to the community for testing and review. At least one alternative will rely on the use of form-based regulations to achieve housing goals. Alternatives related to parking for various housing types and the city's tree canopy goals will be included. The results of community testing of the code concepts through a public engagement process will directly inform the development of specific code language for the code and map amendments.

Comprehensive Plan Implementation Committee

A joint meeting between the Comprehensive Plan Implementation Committee (CPIC), the Tree Board and the Design and Landmarks Commission (DLC) was held on December 17, 2020. The purpose of the meeting was to review and discuss findings from the code audit, to learn more about clear and objective standards and to facilitate a discussion around detailed code concepts. Attendees received a summary report about the code audit including findings (see Attachment 1) and a copy of the full code audit spreadsheet. The meeting included an overview of clear and objective standards as well as form-based code. The bulk of the meeting was spent in breakout groups discussing how to address clear and objective standards as they relate to the regulation of the middle housing, off-street parking, and trees. A part of this discussion included working through scenarios designed to initiate a dialogue about trade-offs. The exercise included a property with a single residential unit, a large tree, and one off-street parking spot. Three illustrated scenarios, showing how one additional dwelling could be added to the property were provided, showing the various issues that would need to be resolved, such as:

- Parking on or off-street and how that can impact tree preservation
- Adding the second dwelling unit as a second floor and how that affects site planning



Summary comments from the breakout groups regarding the scenarios and clear and objective standards are in Attachment 2.

Next Steps

- Begin planning next public outreach event – code concepts
- Meeting with Jon Hennington, Equity Manager, to strategize outreach
- Residential parking utilization study – Rick Williams
- Additional interviews to focus on code issues

BUDGET IMPACT

The active consultant contract runs through July 31, 2021.

WORKLOAD IMPACT

Staff from community development, planning, and public works departments have been assigned to work on this project. Coordination began in March 2020 and will continue through June 2021.

CLIMATE IMPACT

The objective of the implementation project is code amendments that will support a variety of housing opportunities throughout the city, including middle housing, and an updated tree code that will help the city achieve its stated goal of a 40% tree canopy.

COORDINATION, CONCURRENCE, OR DISSENT

Community development, planning, engineering, city manager's office, and public works staff are working on this project.

ATTACHMENTS

1. Code Audit Summary Report
2. Summary Comments from December 17 CPIC interactive exercise

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation – Code Audit Report

To: City of Milwaukie Project Management Team

From: Marcy McInelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

CODE AUDIT SUMMARY REPORT

Introduction

Implementing the Comprehensive Plan

In 2015, as part of its project Milwaukie All Aboard, the city initiated a dialogue with the community to update its 20-year old vision statement and identify an Action Plan. Building on its visioning process, the city then spent two years working hand in hand with the community to update its Comprehensive Plan. Updating the Comprehensive Plan is a major undertaking that Oregon requires cities to complete on a periodic basis. An update can be conducted as a check-the-boxes exercise, or it can be used to bring a community together, to foster important conversation about the future, and to memorialize a compelling vision. The Milwaukie Comprehensive Plan adopted in August of 2020 is an example of the latter. Now that it is adopted, the Plan will guide decisions that shape Milwaukie for the next ten to twenty years.

The adoption of the Comprehensive Plan establishes a mandate for Milwaukie to update any lagging land use policies and practices that may be holding the city back from realizing its vision. One major area where current policies and practices need to be updated is the zoning code. The city made it an early priority to update the zoning code in single dwelling residential areas. These areas of the zoning code will need to be amended in order to achieve a number of Comprehensive Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency.

The effect of these zoning changes will be both very large and very slow. Very large in that the Milwaukie areas affected equal over 70% of the land within the City; very slow in that these changes will occur somewhat randomly, lot by lot, and gradually over a long period of time. While the changes are very important, they will not happen overnight. Making the changes does create a framework for addressing historic patterns of inequity.

Exclusion and lack of affordability

Changes to Milwaukie's zoning are focused on a singular aspect of American cities from a certain era: single family zoning. Most western US cities and suburban areas developed after regulations were adopted in the mid-19th century that dictated the size of residential lots; the form and shape of dwellings; the types and numbers of households that could live in them; and requirements for providing parking on-site. In effect, single family zoning created large areas with only one kind of housing, which many Americans could not afford. These neighborhoods became monocultures of housing, and by extension, monocultures of people, segregated by age, race, income, and household type.

The Comprehensive Plan touches on how Oregon, as a state, and areas in Milwaukie enacted "Exclusion Laws." These laws banned slavery but also prohibited Black people from settling or remaining in the territory, and later from owning property or entering into contracts. Exclusion was further enacted through specific discriminatory laws and housing practices, such as racist deed restrictions (only banned in 1948). More subtle forms of exclusion continued, largely through the mapping and designation of single family zoning over wide expanses of America cities, including Milwaukie. By the time of the 1968 passage of federal Fair Housing Laws, racial exclusion practices continued "de facto," through zoning.

Richard Rothstein, in "The Color of Law," details how even after all of the achievements of the civil rights movement—the desegregation of schools, swimming pools, water fountains, employment, and transportation—one remaining

form of segregation in neighborhoods remained: segregated zoning. Single family zoning enacts systemic exclusion that still exists today. By end of 1960s, the civil rights movement had persuaded much of the country that racial segregation was wrong, and harmful, to both Blacks and whites, and “incompatible with our self-conception as a constitutional democracy”—but zoning in cities was largely left untouched.

After decades of exclusion ranging from being denied home loans, having neighborhoods in which they lived “redlined” (when federal certifiers designated neighborhoods ineligible for loans), facing discrimination in employment, and receiving less pay, Black people were denied the opportunity to own a home. Unable to join the middle class and build generational wealth through homeownership, they were essentially excluded from the American dream which White people had access to for decades. Generations of denial have compounded to make it harder for Black people to buy single family homes today. Exclusion and segregation persists between Black and White people in neighborhoods zoned exclusively for single family homes.

Milwaukie’s history in this regard is not unique; every metropolitan city in America had similar laws and practices in place. Milwaukie is unique, however, in setting a vision for a more diverse community and articulating policies to accomplish this vision in its Comprehensive Plan.

Addressing a housing crisis, needs, and goals

Major generational and demographic shifts that affect housing supply and demand are taking place in Oregon and the country. Some of these affect the entire country and state—such as the recent Great Recession, new households forming, young people growing up, older people downsizing. Some of these affect Milwaukie in particular, such as the development of the MAX Orange Line light rail and increasing population. These national and local trends have combined to create a housing crisis; the supply of housing is not keeping up with the demand, and the need for affordable housing has reached a state of emergency.

The Oregon legislature recently passed House Bill 2001 (HB 2001) intended to address this crisis. Milwaukie, having declared a state of housing emergency since 2015, is ahead of other cities in Oregon. Using its vision and adopted Comprehensive Plan, Milwaukie is well prepared to address housing needs. The City has already made numerous incremental amendments that partially address the issues of housing choice and affordability and bring the zoning code closer in alignment with city goals. The purpose of this project is to think bigger and be bolder—to rethink the single-family neighborhood, and in the process, rethink the role of parking and how to codify the contribution of trees.

A policy mandate and how the current zoning code falls short

The purpose of this document is to explain which zoning provisions and procedures fall short of or prevent the city from meeting its Comprehensive Plan goals. A code audit is one of the first steps. In Milwaukie, the code audit is primarily targeting the zoning code, but there are many related documents that will need to be amended—either as a part of this project or future efforts.

A policy mandate

Adopted policy documents establish a clear policy mandate for this project, which can be summarized in three main themes: housing, tree canopy, and parking.

1. Increase the supply of middle or attainable housing and provide equitable access and housing choice for all
2. Increase the tree canopy and preserve existing trees
3. Manage parking to enable middle housing and protect trees

The code audit

In September the consultant team initiated the Milwaukie Comprehensive Plan Implementation Code Audit. The team audited existing policies and regulations to identify barriers preventing the city from achieving the goals of the Comprehensive Plan. Specifically, the team identified existing policies in the Comprehensive Plan and other policy documents that support the city's goals and vision and reviewed regulations, including policy documents related to urban forestry, affordable housing, and House Bill 2001. The team then reviewed regulations including the zoning code, public works standards, and draft tree code to pinpoint requirements in conflict with identified policies that need to be changed. This memo summarizes key findings and recommendations to address identified obstacles.

FINDINGS AND ISSUES

Following is a summary by the three primary themes of the major findings of code regulations that fail to meet the project objectives identified through the code audit.

Policy Mandate 1: Increase the supply of middle and attainable housing and provide equitable access and housing choice for all

Goal 7 of the Comprehensive Plan recognizes that the shift to permit more forms of housing will require zoning and code changes in order to remove barriers. Additional housing types will need to be allowed in low and medium density zones. The scale and location of this new housing should be consistent with city goals of tree protection and complement the public realm. Further support for the development of denser forms of housing is found in the recent Housing Needs Analysis (HNA). The HNA notes a projected need for 1,150 additional new housing units by 2036, with 54% of these new units anticipated to be some form of attached housing. Both the Comprehensive Plan and Milwaukie Housing Affordability Strategy cite the need to enable equitable housing options that meet the needs of all residents, including in low and medium density zones.

Milwaukie's Comprehensive Plan goals are aligned with the intent of Oregon's Housing Choices Bill (HB 2001) to increase the amounts and types of housing available across Oregon. This will require establishing development standards that regulate size, shape, and form rather than focusing exclusively on density. Additional regulatory and maps changes will be needed in order for the City of Milwaukie to be compliant with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46, known as OAR 660-046.

Code amendments that will support this policy mandate are found in the following sections:

- Title 17 - Land Division – Sections regarding Application Procedure and Approval Criteria, Flag Lot Design and Development Standards
- Title 19 – Zoning (all sections)

Removing barriers to middle housing

Many sections of the land division and zoning code place requirements on developments with multiple units or multiple lots that single detached dwellings are not also required to meet. These types of requirements negatively affect the cost and feasibility of middle housing and are not required of detached single dwelling development. For example, land use review is required for Accessory Dwelling Units (ADUs) and duplexes, but not for single dwellings.

HB 2001 generally prohibits additional requirements for middle housing that are more restrictive or create a greater burden than are faced by single detached dwellings in the same zone. For example, the maximum height of a middle

housing-type dwelling cannot be lower than the maximum height allowed for single detached dwellings in the same zone, and setbacks cannot be greater.

Similarly, Title 17 land division requirements, particularly those in 17.12.020 - Application Procedure and Approval Criteria, create a greater burden on development with four or more lots by requiring a Type III review, which is a more difficult review procedure. This will negatively affect cottage cluster or townhouse developments.

Key Issues

- **Large number of undifferentiated residential zones that do not permit middle housing equitably**

While eight residential zones exist in Milwaukie, several of them are minimally used and are almost identical to other zones in terms of development standards and permitted uses. This creates a lack of clarity about the intent of each residential zone and how it meets stated Comprehensive Plan Goals. Also of note is that the large majority of residentially zoned lands are mapped in the R-10 and R-7 zones. These low-density zones only allow duplexes and ADUs through land use review, including a discretionary Type II review using subjective approval criteria; as a result the vast majority of the city does not meet the policy goal to provide opportunities for a wide range of rental and ownership housing choices and to remove barriers to development of these middle housing types. While the code does permit some middle housing types (duplexes, rowhouses, cottage clusters and ADUs) in some zones, not all types are defined and permitted as required by HB 2001. All middle housing types will need to be allowed in zones that permit single detached dwellings, with duplexes permitted on all lots and other middle housing types permitted in areas defined through this code update and engagement process.

- **Housing types are regulated using permitted land use table**

Currently each housing type is treated as a separate permitted use regulated in the permitted use tables and defined across base zones (Tables 19.301.2 and 19.302.2). This approach confuses housing types with the broader residential land use category. It would be more consistent with the Milwaukie vision to separate housing types from land uses so that the “uses allowed” table for residential zones only lists land uses (e.g., commercial). The categories of residential land uses should be limited (e.g. group living or household living). A separate housing types table would specify which housing types are permitted in which zones and how (e.g. permitted, not permitted, conditional).

- **Housing types confused with household types**

The zoning code uses terms for housing types that are in conflict with goals for equity, affordability, and also conflict with HB 2001 requirements. Definitions for housing types should be based on the building form and lot type rather than who lives in it; for example “single detached dwelling” refers to one house not attached to any other houses located on its own fee-simple lot whereas “single-family detached home” refers to both the building form and lot type but also who lives in the home. Who lives in a home is irrelevant. Definitions should be clearly defined to be consistent with the Milwaukie vision and implementation goals in order to truly promote a wide range of housing types for all types of households living in the city. Terms should be updated and used consistently in all applicable sections of the code (e.g. parking provisions, land use table, etc.).

- **Restrictive standards limit the development of certain housing types**

The middle housing types that are currently allowed are subject to further restrictive and subjective development standards (including in Section 19.500 Supplementary Development Regulations) that discourage their development. For example, cottage cluster housing is subject to standards for size, height, orientation, and required yards in addition to prescriptive design standards addressing individual units and the site. Another example is if a duplex is not allowed outright in a zone, it is required to be located so as “not to have substantial impact on the existing pattern of single-family detached dwellings within the general vicinity,” and its design must be “generally

consistent with surrounding development.” Similar restrictive development and design standards impact the potential development of ADUs, rowhouses, and flag lots.

- **Lack of equitable review processes for housing types**

Different housing types are subject to different review processes in the Milwaukie code. The current regulations need to be carefully evaluated to reduce or eliminate any procedural discrimination for certain housing types. For example, duplexes are currently subject to Type II review in the R-10 and R-7 zones when single dwelling detached homes are not subject to any land use review (Table 19.301.2). This difference in review creates a barrier to achieving the city’s goal of permitting the development of middle housing through new construction and conversions and promoting housing choice for all by creating a more difficult process for certain housing types and in certain zones.

- **Expensive street and frontage improvements**

Public facility improvements (including street, sidewalk, and planter strips) are required for an additional unit as well as an addition greater than 1,500 square feet to an existing home. This includes the development of ADUs and conversions of single units into duplexes. These improvements present barriers to development of these housing types by adding cost. In addition, a traditional curbed street improvement creates a potential conflict with existing established trees that may be in the right-of-way; the required width for new planter strip widths may not be generous enough to accommodate larger trees. More flexible options that allow for rural-character street design would reduce the burden of cost on new and converted middle housing units while maintaining an essential element of Milwaukie’s character. For example, the Island Station Neighborhood Greenway has street types with gravel shoulders and no planter strips. This could be a good model for certain contexts.

Recommendations

- Allow duplexes across all residential zones
- Amend permitted residential types to include triplexes, quadplexes, and townhouses (currently referred to as rowhouses)
- Review low density and moderate density zones to identify areas where triplexes, quadplexes, townhouses, and cottage clusters are a permitted use
- Consolidate residential zones and revise zoning map to expand the area in which middle housing types are permitted equitably across the entire city
- Decouple housing types from uses table and clean up definitions to remove confusions with household types
- Simplify and reduce the amount of design standards applicable to middle housing types and make them clear and objective so that all housing types, whether detached single units or larger number of attached units, are subject to the same standards
- Permit all middle housing types to be permitted using the same approval type as single family dwellings are subject to today
- Increase flexibility for street and frontage improvements and permit creative street designs to reduce the burden of cost on middle housing development

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees

Trees are key to Milwaukie’s quality of life. It is clear that trees are very important to Milwaukians and are a major contributor to the quality of life in Milwaukie, and, could be considered a signature feature of the city to be nurtured and protected. They contribute to property value and are also important to reducing stormwater runoff, improving residents’ health outcomes, helping the city meet its climate change goals and reducing heat island effect.

Because many of the most magnificent trees that contribute to Milwaukie are on private property, it is appropriate that there be greater protection of those trees in order to achieve the community's goals. This means trees on private property will be regulated differently than they have been in the past in order to preserve the existing and contribute to the future canopy of the city.

Changing the code to preserve trees on private property will have implications for city staff; there will be more applications to manage and a greater load on review boards. A culture shift may be required on the part of citizens, the development community, and city staff; one that promotes a collaborative approach to tree preservation and planting. The city established a Tree Board recently and the committed Public Works department views trees as another form of citywide infrastructure. If site and tree specific conversations occur early in the application process, there will be a much better understanding of goals and priorities by all parties.

Both broad and detailed support for preserving and increasing the tree canopy throughout Milwaukie is found in the Comprehensive Plan, Climate Action Plan, and Urban Forestry Management Plan. In Goal 3 of the Comprehensive Plan a target is established for a 40% tree canopy using a combination of development code and other strategies. Goals recognize that flexibility is needed in the siting and design of buildings and design standards in order to preserve existing large and old-growth trees while also increasing the tree canopy in areas that are currently deficient. The Urban Forestry Management Plan and Climate Action Plan bolster these objectives with possible implementation actions, but do not indicate which regulatory changes might contribute the most to achieving canopy goals. The Urban Forestry Management Plan further notes that the tree canopy is not equitable across the city and supports implementation actions that, while reducing barriers to affordable housing, also increase equitable access to trees and their benefits.

Code amendments that support this policy mandate are found in the following sections:

- Title 16 – Environment, 16.32 – Tree – Code (and related code section, Public Works Standards, 5.0030)
- 19.200 Definitions, Tree-related definitions
- 19.402 Natural Resource Overlay Zone
- 19.1200 Solar Access Protection
- Draft Tree Preservation Amendments

Other sections that were reviewed and for which amendments are recommended that are not part of this project:

- 19.401 Willamette Greenway Overlay Zone

Key Issues

· **Solar access requirements are potentially in conflict with tree canopy goals**

Understanding how solar access provisions are enforced over time, especially regarding tree planting, growth and future shading, will be important. The approved tree list should be updated to clarify which trees are preferred, noting which do not interfere with solar collection. A list of solar-friendly trees should also be listed on the city website.

· **Additional consideration should be given to native trees and other climate change suited species**

This should also include measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies to encourage the propagation of a diversity of species that increase forest resiliency.

· **Flexible standards for tree preservation, especially as it relates to middle housing development, should be further explored**

Standards for tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into larger patterns of the area. Included in this analysis should be consideration given to areas identified as

deficient in tree canopy in an effort to make tree plantings more equitable across the city. These standards should include protection measures during construction.

- **Consider enforcement of tree planting and preservation after development is completed**

Continued funding and staffing resources are needed for successful enforcement.

Recommendations

- Create more distinct code sections in Section 16.32-Tree Code for development and non-development related code criteria, and create standards for the preservation and planting of priority street tree species with development
- Reference desired tree species and conditions in updated public works standards and revised code for private residential property; ensure they include native trees , other climate change suited species and support canopy goals
- Ensure newly planted trees have access to adequate soil volumes that support their long term growth to maturity
- Create enforcement mechanisms to ensure newly planted trees become established and are properly managed for the long term as condition of permit approval
- For projects in which tree preservation on site is not feasible, explore fee-in-lieu programs, i.e., the property owner or developer pays into a fund

Policy Mandate 3: Manage parking to enable middle housing and protect trees

Goals 6 and 8 of the Comprehensive Plan, along with strategies identified in the Climate Action Plan and Milwaukie Housing Affordability Strategy, offer strong support for minimizing parking in new developments in order to reduce vehicle emissions and encourage the use of alternate transportation. There is a desire to create a more energy efficient land use pattern in Milwaukie. This includes infill development and neighborhood hubs that includes mixed-use development while providing a wider range of rental and ownership choices.

There is also a strong desire to create more housing opportunities for all income levels throughout Milwaukie, not just in areas where multi dwelling units are allowed. The Milwaukie Housing Affordability Strategy identifies right sizing parking requirements to user patterns as critical to achieving this. Right sizing parking can help provide flexibility and both reduce the cost of housing production and increase viability for a range of unit types. Appropriate management may also be necessary. Reducing the amount of parking provided will also preserve more trees.

Code amendments that support this policy mandate are found in the following sections:

- 19.200 Definitions, Parking-related definitions
- 19.505.4 Parking Spaces Location
- 19.600 Off-Street Parking and Loading

Other sections that were reviewed regarding to this policy mandate, and for which amendments are recommended but are not part of this project:

- Public works standards – 5.0110 Private Streets/Alleys

Key Issues

- **Ensure adequate parking**

While many Milwaukians still drive and own cars, the community has expressed a clear desire to increase its share of people who don't own cars, who own fewer cars, and who bike or walk for many of their needs. It will continue to be

important consider parking that allows people to store their cars at or near their homes for the foreseeable future. However, there are a number of strategies that can be put into place that can help the city achieve multiple objectives while still providing enough parking to meet most people's needs. It does signal a major change in that parking will become the commodity it is and will no longer be as free or abundant. This change will happen over time, and hopefully in concert with other investments in transportation that provides people with more options to not drive.

- **Managing parking in residential zones (off-street)**

Parking requirements are another area where the current zoning code (Section 19.600 Off-Street Parking and Loading) places additional burdens on middle housing. Parking requirement can impact the affordability of housing in a number of ways. Currently the requirement for a minimum of one space per dwelling unit and 1.25 spaces for housing that includes 3 or more dwelling units that are over 800 square feet makes many forms of middle housing infeasible, financially and physically. In order to comply with HB 2001, only one parking space may be required for middle housing, and on-street parking may be allowed to count toward the requirement.

- **Managing parking in residential zones (on-street)**

Section 19.600 includes a purpose statement that generally supports many aspects of the policy mandate, such as "provide adequate, but not excessive, space for off-street parking. However, "avoid parking-related congestion on the streets," may be problematic. It assumes that on-street parking causes congestion, and also assumes auto congestion is an issue. On local streets in particular, on-street parking can reduce auto speeds (congestion) and make streets safer. This language may preclude ideas about reprioritizing and rethinking local streets that have been brought up by the community. Likewise managing parking is an important way for the city to achieve housing affordability and tree canopy goals. There are opportunities throughout Milwaukie to use the on-street parking system to help offset onsite parking demand. This approach may require some form of residential parking management at some point in the future. In addition to addressing off-street parking requirement in the zoning code, public works standards for streets and implications for on-street parking, will also need to be addressed. Historically, most cities have not managed on street parking in residential zones, however new approaches to parking will be needed to balance housing and transportation needs.

- **Achieving greater flexibility for parking**

Currently Section 19.600 does not permit on-street parking to count toward meeting parking requirements for new development. This section also precludes unbundling of onsite parking from housing, and may prohibit parking spaces from being rented or sold separately from the dwelling unit. In future Milwaukie neighborhoods where managing parking and middle housing options are more prevalent, permitting the "unbundling" of parking from dwelling units can make middle housing more economically feasible and affordable. Additional design standards in Section 19.607 further regulate the location and design of parking and have an impact on the feasibility and cost of developing middle housing. For example, off-street parking is not permitted within the required front or side yard or within 15 feet of the front lot line. This requirement essentially requires two parking spaces for each unit as the parking cannot be provided in the first 15 feet of the driveway approach. This standard has been a barrier to the conversion of garages as ADUs and reduces the potential developable area for middle housing types.

- **Importance of on-street parking**

Permitting parking on the street to count against parking requirements can make a lot of sense if the goal is to reduce the cost of housing, since even a surface parking space adds cost to housing. And if the street is already paved (or planned to be paved or widened), it makes sense to use already-paved space for parking instead of adding additional paved area on private property. Any strategy to reduce overall paved area in the city will benefit natural resource protections and trees, and reduce stormwater runoff.

Recommendations

- Explore the feasibility of reducing parking minimums in light of use of on-street space and on-site design
- Tailor reduction of parking minimums in tandem with use of on-street space, and on-site design to neighborhood supply and demand
- Ensure parking minimums comply with HB 2001
- Consider the usefulness of technology (e.g., car stackers), and if appropriate ensure the code does not preclude their use
- Consider defining active transportation and how it can be required in a residential development to address goals for better connectivity, transit, etc. in the Plan
- Clarify those active transportation measures which can be addressed by development, as opposed to ones which require infrastructure investments commonly made by the public sector
- Employ data to quantify underused on-street space in affected neighborhoods and “calibrate” to real impacts of new development on existing supply
- Adjust code requirements to reflect true capacity
- A request for “reducing” a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed. Amend approval criteria to permit lowering the minimum requirement or locating parking off-site
- Eliminating current exemptions/reductions process and use requirements of the Transportation Demand Management (TDM) in 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements
- Consider building TDM measures in as options for developers along with lower parking minimums
- When considering stacker technology for parking solutions (see above), review height maximum of 8 feet for cottage cluster garages

APPENDICES

Attachment A: Code Audit

The Code Audit Summary (Attachment A) provides an in-depth review of relevant policies as well as relevant regulations. It is a spreadsheet with the following sheets:

1. Policy Review

- Lists relevant goals and policies from the Comprehensive Plan
- References related code sections
- Identifies any issues or areas for discussion

2. Code Audit (regulatory review)

- Lists relevant sections of the code that might be in conflict with identified goals and policies
- Provides issues for discussion and recommended fixes to existing regulations

3. Public Works Audit

- Lists relevant sections of the standards that might be in conflict with identified goals and policies
- Provides issues for discussion and recommended fixes to existing regulations

Attachment B: Milwaukie Residential Zones – Summary Tables

Attachment B summarizes, in a series of tables, relevant regulations from the Milwaukie Municipal Code. Summary tables include the following:

Title 17– Land Division

- Boundary Change Actions Table

Title 19 – Zoning

- Use Comparison Summary Table
- Development Standards Comparison Summary Table
- Other Applicable Development Standards Table
 - Accessory Structures Standards Table
 - Site Design Standards Table
 - Cottage Cluster Housing Development and Design Standards
 - Rowhouse Design Standards
 - Off-Street Parking Standards / Additional Design Standards
 - Public Facility Improvements
 - ADU design and development standards and review requirements
 - Duplex development standards and review requirements
- Approval Types Summary Table / By Residential Zone

Attachment C: Summary of HB 2001 Compliance Paths

Attachment C summarizes the different ways a city may comply with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46.

Date 20_1223 | **Subject** CPIC #4 – Interactive Exercise Summary | **To** Vera Koliass, City of Milwaukee | **From** Marcy McInelly (Urbworks), Kimi Sloop (Barney & Worth) | **Copy** Pauline Ruegg, Erika Warhus

CPIC #4 – INTERACTIVE EXERCISE FACILITATORS GUIDE

Exercise Context: The context for the interactive exercise will be set with a presentation of the overview of the policy mandate, code audit findings, and descriptions of “clear and objective standards” and form-based codes earlier in the CPIC meeting agenda.

Purpose: The purpose of the interactive exercise is to engage the CPIC, Tree Board, and Design and Landmarks Committee in a discussion of the elements that can be regulated through clear and objective standards for trees, middle housing, and parking; and to help them understand the challenges and trade-offs involved when all three elements must be regulated at once.

Format: Each pre-assigned small group break out session will have 30 minutes to discuss the questions. Each group will be discussing the same questions. Each group will have a facilitator to facilitate the discussion, a scribe to take notes, and a person to report out the key ideas from each group. The scribe will share their screen so everyone can see the notes that are being taken (just as you would if it was a small group discussion with a flip-chart). The scribe will also have the graphic for Question 4 as a separate PDF file so that meeting participants can see the graphic and the flipchart at the same time.

Roles:

- **Facilitator** – ask the questions, keep track of time, make sure that everyone is able to participate in the discussion. Answer technical questions if asked to provide clarity.
- **Scribe** – take notes on the attached form. Record the key themes and quotes. Answer technical questions if asked to provide clarity. Assist with keeping track of time.
- **Group spokesperson** – one of the participants will report out the key take-aways from the discussion (4 minutes).
- **Participants** – CPIC, Tree Board, and Design and Landmarks Committee members who will participate in the conversation in the break out session.

Steps:

1. Facilitator reminds everyone that all input is valuable and to be respectful of other’s opinions regardless of whether or not you agree. Remind the group that we are discussing the standards that can be measured – clear and objective standards - and their tradeoffs (for example, the concept of protecting mature trees); the details will come later (for example, the specific diameter at breast height of a tree to protect).
2. Discuss questions 1-3 for about seven minutes each.
3. Before moving on to Question 4, select a committee person to be the spokesperson for the group (Note – you will automatically be put back into the large group at the end of the 30 minutes so make sure to select someone before the time is up)
4. Discuss question 4 for seven minutes.
5. Use the last couple minutes to wrap up the discussion, go over key themes for the spokesperson, etc.

Q1: Middle Housing (7 minutes)

EXAMPLE OF A CLEAR AND OBJECTIVE STANDARD FOR HOUSING

C. Standards

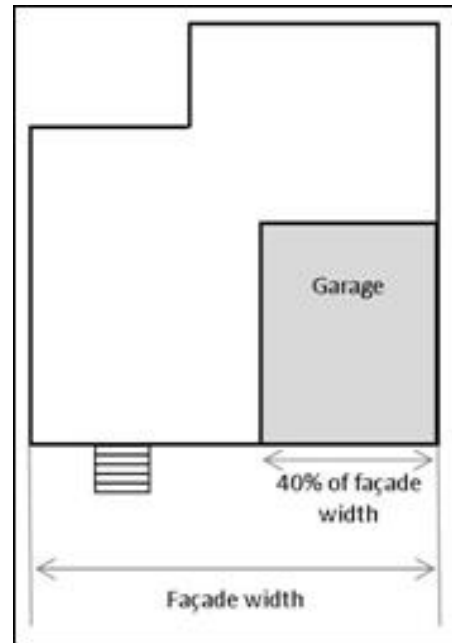
1. The front of a garage or carport can be no closer to the front lot line than the longest street-facing wall of the house that encloses living area. The following exceptions apply:

- a. A garage or carport may extend up to 5 ft in front if there is a covered front porch and the garage or carport does not extend beyond the front of the porch.
- b. A garage may extend up to 5 ft in front if the garage is part of a 2-story façade that has a window at least 12 sq ft in area on the second story that faces the street.

2. The width of a street-facing garage door(s), as measured between the inside of the garage door frame, may not exceed 40% of the total width of the street-facing façades on the same street frontage as the garage door. See Figure 19.505.2.C.2.

Notwithstanding this limit, a dwelling is allowed one (1) 12-ft-wide garage door, regardless of the total width of street-facing façades. The maximum allowed garage door width may be increased to 50% of the total width of the street-facing façade if a total of 7 detailed design elements in Subsection 19.505.1.C.4 are included on the street-facing façade.

Figure 19.505.2.C.2
Maximum Garage Width



Questions

Referring to the example, what are other development standards you feel should apply to middle housing residential structures?

How can they be regulated using clear and objective language? *Clear and objective means the requirement is measurable and can be met with a yes or no answer.*

Facilitator prompts: Form, shape, location, other?

Q2: Trees (7 minutes)

EXAMPLE OF A CLEAR AND OBJECTIVE STANDARD FOR TREES

Note: This is an example goal and standard, not an existing adopted standard

1. All trees greater than 30" Diameter Breast Height (DBH) shall be preserved.

If the tree cannot be preserved the options are (example options):

- a) Replace the tree with multiple smaller trees on the same site or lot.
- b) Pay an "in lieu fee" into a mitigation fund which is used to implement urban forestry goals in another location within the city. An example is a local urban forestry fund for tree maintenance, preservation, and/or tree planting.

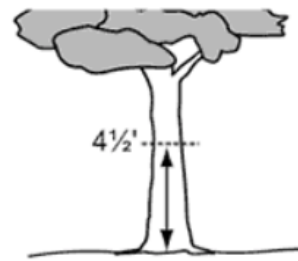
Examples of exceptions that are often specified in urban forestry standards:

- A tree may be removed if it is a nuisance tree, a hazard tree, it conflicts with an approved building permit, it is dead, in an advanced state of decline, or has sustained physical damage.

Example of a removal standard:

- If a tree is removed it must be removed in a manner consistent with the tree care industry standards outlined in the most current version of the ANSI A300 Standards for Tree Care Operations.

**Figure 80-4
Measuring Tree Size for Existing Trees**



Questions

Referring to the example, what are other development standards you feel should apply to trees on private property?

How can they be regulated using clear and objective language? *Clear and objective means the requirement is measurable and can be met with a yes or no answer.*

Facilitator prompts: Size, location, value to canopy, other?

Q3: Parking (7 minutes)

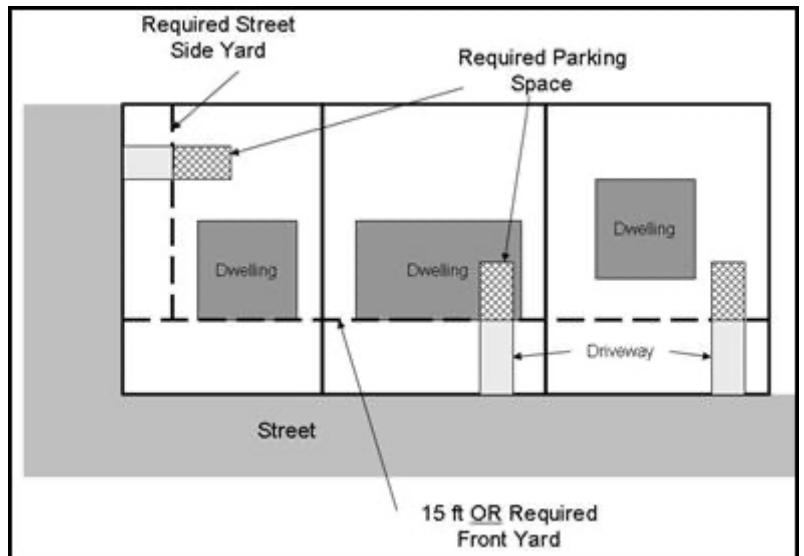
EXAMPLE OF A CLEAR AND OBJECTIVE STANDARD FOR PARKING / MIDDLE HOUSING

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4.

2. No portion of the required parking space is allowed within the following areas.

- a. Within the required front yard or within 15 ft of the front lot line, whichever is greater.
- b. Within a required street side yard.



Questions

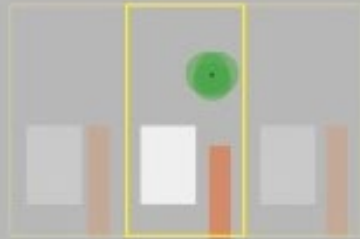
Referring to the example, what are other development standards you feel should apply to parking on private property?

Referring to the example, what are other development standards you feel should apply to parking on the street?

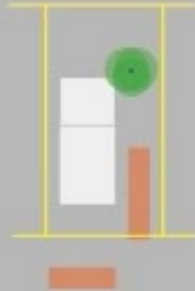
How can they be regulated using clear and objective language? *Clear and objective means the requirement is measurable and can be met with a yes or no answer.*

Q4: Trades-offs (7-10 minutes) – remember to select a spokesperson

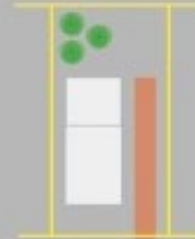
MEASURING TRADEOFFS



- » Existing single dwelling on a lot
- » Mature tree on site
- » Parking on site



- » A second unit is added
- » Additional parking is accommodated on the street
- » Mature tree stays



- » A second unit is added
- » Additional parking must be accommodated on site
- » Mature tree is removed
- » Smaller trees planted



- » A second unit is added
- » Additional parking is accommodated on the street
- » Mature tree stays
- » Permeable surfaces remain

Questions

Referring to the example, we are starting with a residential lot with a single dwelling structure on it, along with a big tree, and one parking space.

We are adding one additional unit to create a duplex structure.

Two dwelling units can be created on this site in the follow ways: 1) Through an internal conversion, 2) with new construction or 3) by adding a structure.

We are discussing the different trade-offs, as follows

Scenario 1:

- Add a structure that is low profile and attached to the original structure.
- The building footprint expands to about 1.5 times its original size.
- The additional parking space is accommodated on the street.
- The large tree on site remains.

Scenario 2:

- Add a structure that is low profile and attached to the original structure.
- The building footprint expands to about 1.5 times its original size.
- The additional parking space must be accommodated on the site.
- The large tree on the site is taken down, and younger replacement trees are planted on the site.

Scenario 3:

- Add a structure that is higher profile, in the form of stacked dwelling units.
- The building pops up to 2 or 2-½ times its original height, while the building footprint remains nearly the same.
- The additional parking space is accommodated on the street. The large tree on site remains.
- There is more space for trees and permeable surfaces in this scenario, since the building footprint stays the same and additional parking is accommodated on the street

CPIC #4 – INTERACTIVE EXERCISE – GROUP NOTES

Public Meeting Group (Vera)

Question 1: Housing

- Duplexes already in community, triplexes and quad may be more difficult
- Need to plan for denser housing around transportation corridors
- Consider lot coverage limitations, units must fit within the same coverage
 - May help with affordability
- Undeveloped, pervious surfaces are really important for trees (stormwater, natural resources)
- Community character is important – historic homes and common neighborhood design

What should the code be thinking about?

- Duplexes are already in the community, questions more around triplex/quadplex
 - Duplexes fit in well, similar to SFH (blend in)
- Triplexes/Quadplexes design features? Direction for designers/developers?
 - Combination of setbacks and lot coverage
- SE neighborhoods blend
- No standards for planting trees
- Transportation planning
 - Location of higher density housing is important
 - Proximity to transit lines promote walkable communities
 - Scattered community members (CCC) presents challenges for transportation planning
 - High density housing proximity to transit corridors help with planning
- Limits on sizing of houses or buildings for lot coverage
- Square footage limitations for units/lot coverage?
- Maintaining size of 'standard lot coverage' but divide into more units
 - If we can come up with the same standards for compatible lot coverage, more units, same characteristics
 - May make the units more affordable/mechanism for affordability?
- Maintaining larger proportion of pervious surfaces
 - Sustainability is important
 - Too much concrete used in new development
 - Worth building up to maintain pervious surfaces
 - Pervious surfaces = watershed management
- Community character
 - Historic properties - Milwaukie doesn't have the best list of properties, Older properties have more space around them
- Developable land
 - Standards for historic properties? Houses on those lots can be put further back on lot
 - Form is important, more to the design
 - Special section for historic homes/properties - New developments may not fit in form and scale
 - Volume and shape issue when compared to neighborhood design

- May need to identify neighborhood designs (gables/midcentury design) - Milwaukie doesn't have those requirements for SFH now
- Need to be careful about how we talk about homes fitting in form/scale

Question 2: Trees

- Adequate planning for tree soil volume and space requirements
- Trees can impact sidewalks, need smart planning
- Flexible sidewalk design can allow for more trees and their benefits
 - Benefits to pedestrians walking on sidewalks
- City should highlight stormwater benefits for trees, maybe offer incentives like City of Portland
- Large trees need to be preserved
 - Replacement needs to be equivalent
- Developers need to follow construction and tree selection best management practices
- Trees promote community character, hide some building flaws
 - "Trees hide a lot of sins"
- Million Tree Program – Soil volume is important
 - 16ft²
 - 36ft² medium
 - 100ft² mature
- Large units create challenges for tree space
- Larger trees require more land resources
- Trees can impact active transportation infrastructure, ADA
- Tree planting standards (root location, tree species for locations)
- Allow for flexible sidewalk design to allow for trees in ROW
- Stormwater benefits needed by roads
- Shading folks walking below
- Create Stormwater incentive with trees
- City of Portland subsidies for new trees
- Trees provide ecosystem benefits. need to codify preservation
- Need to maintain large trees on site
 - Hard stops for DBH
- Developer responsibility for strategic planting and maintenance
 - Construction BMPs
 - Smart locations
- Any removal of trees over a certain size needs a 1:1 at least replacement - Inch for inch
- Trees = community character, hide sin

Question 4: Trade-offs

- Milwaukie streets may not be suitable for higher levels of on street parking
- Most in group in favor of building higher for less natural resource/pervious surface impact
- Consider street design for increased on street parking and pedestrian presence
- Consider pervious construction materials for sidewalks
- Not every house needs a parking space
- Concern with on street parking

- Neighborhoods lack sidewalks
- Add cars to the streets can require folks to walk in the street
- Streets may be in poor condition
- Discretionary review of street conditions in on street parking needed
- Building upwards to maintain tree and pervious surfaces
- Street design may be needed to increase ability to walk/park on street in absence of resources for larger infrastructure build out
- Do the least harm – choose number three
- Why do sidewalks have to be concrete?
 - ADA accessibility
 - Stormwater – water runoff
- Does every house have to have a parking space?

Group 1 (Laura)

Question 1: Housing

- Each new unit should have a primary entrance that faces the street
- Square footage bonus (height) if new middle housing opts not to provide on-site parking

Question 2: Trees

- Need a standard that accounts for different tree forms
- Some of the language in the example(s) is subjective/discretionary
- Prioritize the retention of existing mature trees (hard to replace them with a fund . . .)
- Establish requirements (or incentivize) the planting of street trees
- Don't penalize the removal of a tree that could impact solar access
- Treat trees as critical infrastructure
- Require inch-for-inch replacement/mitigation
- Provide flexibility for setbacks and footprint location in order to preserve mature trees

Question 3: Parking

- Do not require more parking for duplexes than for single-family houses
- Don't prioritize parking over trees and neighborhood character (provide flexibility)

Question 4: Tradeoffs

- If you choose to remove the mature tree, could you provide the additional needed parking on the street (instead of on the site)?
- Additional height is not a concern
- Fee in lieu of retention or off-site mitigation option are important
- Healthy mature canopy is important (not simply the number of trees)
- Preferable to retain the existing mature tree, regardless of building footprint or parking impact
- Diversity of design/form is important—deprioritize consistency of form in favor of prioritizing tree preservation

Group 2 (Peter)

Question 1: Housing

- Lot width and depth – ties in to garage width
- Challenge of narrow lots for rowhouses
- Dimensional form of housing – height, setbacks

- Density – how many units can be built on a lot
- Parking requirements on-site, esp. in case of multiple units on the lot
- Street-facing requirements
- Common space (public and private) – physical accessibility (ADA compliant)
- Private open space – percentage, where trees are planted, how much space they need to perform, every unit required at least Y square feet of private space, X SF/unit multiplied by # of units for public space, how much space to put tables and chairs - functionality
- Minimum dimension in every direction - measurable

Question 2: Trees

- Size of tree – increase canopy, trunk size (4.5 ft measurement) most important
- Challenge of defining size – 8-10 inches
- Specific species – heritage trees, certain varieties that are endangered (white oaks)
- Tree varieties facing climate shift (ex Port Orford Cedars) – promoting climate resiliency
- “Best tree is a living tree”
- Criteria for ecological/habitat benefits – ex. Messy apple trees – food security in addition to canopy
- Replacement trees – what trees, trees that thrive, location, etc.

Question 4: Tradeoffs

- Every street is different – context matters, for example where parking is at a premium
- Different trees at different ages – sensitivity of roots, ways to take advantage of providing more space for parking without hurting trees ex. Raised sidewalk at Ledding Library
- Do you meet inch per inch tree size ex. 3 smaller trees that equal diameter of larger tree
- Scenario with parking on-site could be acceptable if tree is below standard for saving, still provide canopy in other ways
- “How do you replace one tree and then decide how many trees need to replace that one tree?”
- 3 trees that could potentially get large – how to cap that so remaining space is viable for development
- What are tree canopy goals for that specific neighborhood – neighborhood where trees are at a premium
- Process piece – did you consult with city arborist, taken into account neighborhood tree goals – less prescriptive, more requiring applicant to fully consider context

Group 3 (Marcy)

Question 1: Housing

- What percentage of the lot they take up? Total area of the lot?
- Placement of setbacks?
- What percentage of the total footprint is vegetated area?
- The increase in density that comes with middle housing should be distributed with guidelines
- Equitably distributing the intensity of middle housing
- Density based on public transportation
- Is the density adding everywhere, or around corridors or hubs?
- We can apply the same façade rules to multifamily housing
- Having case studies of the code to see how these affect housing types
- The need to add to existing utilities by adding housing units, and the effects in existing housing

Question 2: Trees

- Milwaukee should regulate tree removal on private property
- Mechanism in place to assist homeowners in maintaining trees; street, private (regulated)
- If street trees are required, and the homeowners are required to maintain, this should be shared equitably
- Damage the tree may be causing infrastructure or homes

- Preserving trees can run up against clear and objective standards for structures

Question 3: Parking

- Condense parking into a designated area for multiple lots for the neighborhood
- Minimize the requirements for parking
- Reduce or negate the parking requirements within a certain distance of a high frequency line
- Community education can garner more support for parking changes
- Parking approaches specific to certain zones
- Parking enforcement will increase

Group 4 (Kimi)

Question 1: Housing

- Site/Lot coverage and permeable surface standards.
- A minimum of 1000 cubic feet of soil protected and available for planting.
- Designation of open space.
- Dwelling unit size of additional units on site. Maybe a maximum floor area limit for a quadplex/tri plex to aim for more affordable units
- Parking. Example of looking at parking at a block level. Mention of diagonal parking. Looking at impact the block level not just the unit level.
- Sidewalks. Ensuring safe access when there is new development.

Question 2: Trees

- NO exceptions for tree planting and mitigation and affordable housing. Ensure equitable access to trees and their benefits for all.
- No more than 50% of the square footage of the critical root zone and area equal to a radius of 1' per trunk diameter undamaged and protected by construction?
- Are there no impacts exceeding a 4" grade change within an area surrounding a tree equal to a radius of 6" to 1" trunk diameter?
- Are there no impacts at all within an area measured as a radius of 3" per inch of trunk diameter?
- If the tree needs to be removed and plating mitigation trees is necessary, is there a minimum of 1000 cubic feet of soil that can be on site?
- Contiguous canopy – preserve and put a higher value on tree canopy. Is there a system of habitat movement being given preference? Forgive parking spaces to protect trees. Trees are part of a connected system should be prioritized for protections.
- Species of trees, and percentage of species to ensure diversity of trees to ensure that the entire system does not get decimated.

Question 3: Parking

- Delineation of property line and the public right of way on unimproved sidewalks.
- What is a creative solution to addressing the lack of sidewalks in our neighborhoods?
- This a block wide or community wide scenario that may not be solved at an individual property level.
- Type of pavement (permeability)
- Standard for maximum parking area and maybe that can be increased if using pervious materials.
- No parking on the site if they are able to formalize the parking space in front of a house as a tradeoff to not having a driveway for example.
- Consider alley way designs if applicable. Utility/driving/parking garage entrances
- Stepbacks and distance from the street.
- Concern about adding a cost burden to housing.

Question 4: tradeoffs

- If we are talking about tradeoffs perhaps we should go back to the drawing board and try and find a more creative design solution that meets all three objectives instead of compromising. This is the ideal.
- Scenario 3 – because it leaves most permeable surface
- Scenario 1 would be an alternative if the cost of option 3 is more to ensure more affordability.
- Need to allow all three scenarios – when is the third image (Scenario 2) the preferred alternative? Depends on the grade of the street, the improvements along the curb, if there is an internal conversion maybe there isn't a need for additional parking. If we need want to avoid Scenario 2 code needs to nudge toward option 3.
- Decisions are site specific. Are the trees even worth preserving? Is the building worth building on to?

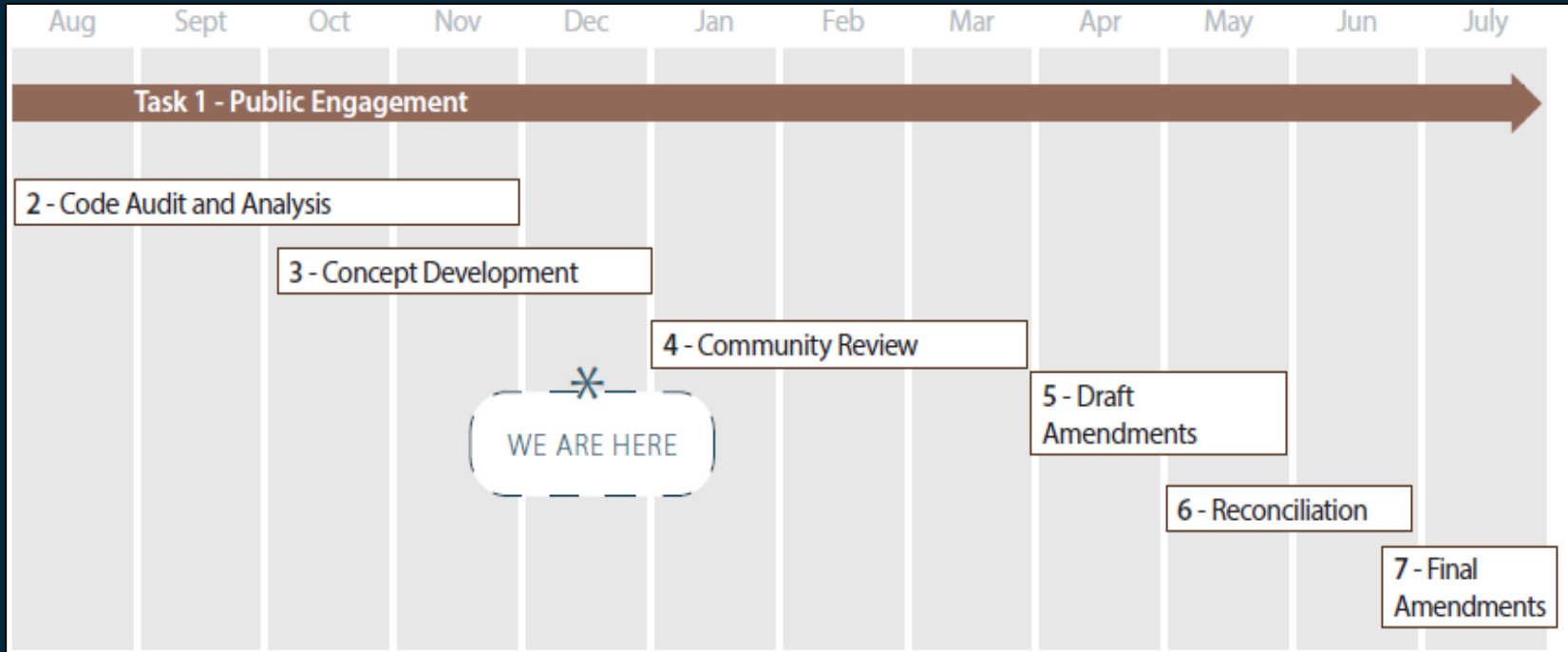
**WS 2. 1/19/21
Presentation**

COMPREHENSIVE PLAN IMPLEMENTATION PROJECT - UPDATE

City Council Worksession
January 19, 2021
Vera Kolas, Senior Planner



PROJECT SCHEDULE



ACTIVITIES

- Consultant
 - Code audit submitted
- CPIC
 - 12/17: Joint mtg with Tree Board and DLC: code concepts
- Consultant & Staff – next steps
 - Develop code concepts: Dec – Feb
 - Begin planning Public Engagement #2
 - Res parking study



CODE AUDIT – POLICY MANDATES

- Increase supply of middle housing; provide housing choice
- Increase the tree canopy and preserve existing trees
- Manage parking to enable middle housing and protect trees



KEY FINDINGS & RECOMMENDATIONS

Middle housing

- Permit more types of housing in low and medium density zones
- Consolidate residential zones
- Remove code and procedures that are barriers
- Prohibit requirements for middle housing that are more restrictive than for single detached dwellings



KEY FINDINGS & RECOMMENDATIONS

Trees

- Clear & objective standards for preservation and planting
- Preserve large trees
- Enforcement of requirements



KEY FINDINGS & RECOMMENDATIONS

Parking

- Reduce parking on-site to preserve trees
- Right-size parking requirements
- Explore using on-street space

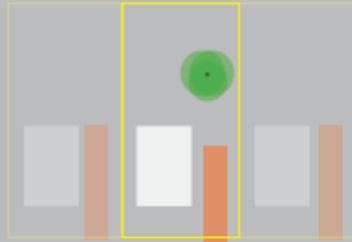


CPIC DISCUSSION ITEMS

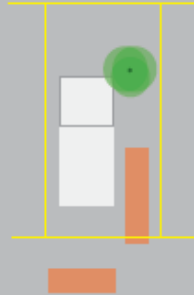
- Clear and objective standards
- Form-based code
- Small group exercise
 - Discuss clear and objective standards for housing, trees, and parking
 - Trade-offs exercise



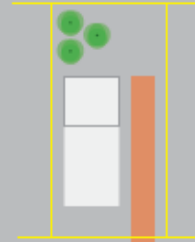
TRADEOFFS EXERCISE



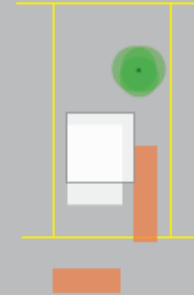
- » Existing single dwelling on a lot
- » Mature tree on site
- » Parking on site



- » A second unit is added
- » Additional parking is accommodated on the street
- » Mature tree stays



- » A second unit is added
- » Additional parking must be accommodated on site
- » Mature tree is removed
- » Smaller trees planted



- » A second unit is added
- » Additional parking is accommodated on the street
- » Mature tree stays
- » Permeable surfaces remain



GENERAL TIMELINE

