

**ORDINANCE 37-2019**

**AN ORDINANCE AMENDING AND UPDATING SECTIONS 5-127, 5-129, 5-130, 5-136, AND 5-137 OF THE PROPERTY MAINTENANCE CODE AS CODIFIED IN CHAPTER 5, ARTICLE IV, DIVISION 1 OF THE OWENSBORO MUNICIPAL CODE.**

**WHEREAS**, the Property Maintenance Code is codified in Chapter 5, Article IV, Division 1 of the Owensboro Municipal Code; and

**WHEREAS**, the Property Maintenance Code has had few amendments since its enactment in 2011 and it is necessary to amend certain sections of the Property Maintenance Code to better serve the citizens of the City of Owensboro.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:**

**Section 1.** That Chapter 5, Article IV, Division 1., Section 5-127 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

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

*Abandoned real property* shall mean real property or any improvements thereon that is vacant, unoccupied, or not in use for a period of twelve (12) months [~~one (1) year~~] and which is any of the following; neglected, dilapidated, unsanitary, vermin infested, not serviced by public utilities, dangerous to the safety of persons, unfit for its intended use, by reason of neglect or lack of maintenance has become a place for the accumulation of trash or debris, or has been tax delinquent for a period of at least three (3) years.

*Abatement costs* shall mean the costs associated with clearing, cleaning, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve public health, safety, and welfare in accordance with the portion of the property maintenance code.

Back Yard shall mean the yard area that is located behind the rear most wall of a residential structure.

Clear Space shall mean back yard space that is open yard, not including areas where buildings have been erected or driveway connection to any detached garage for the determination of maximum “out of ordinary view” storage considerations.

Code Enforcement Board shall mean ~~[means]~~ an administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to 65.8839.

Code Enforcement Officers shall mean those individuals whose duties are directed at enforcement of the property maintenance ordinance and sanitation ordinance.

Code Official shall mean ~~[property maintenance code enforcement officer(s),]~~ the public works director or their duly authorized representatives, all of whom are charged with the administration and enforcement of this division.

Creditor shall mean a federal or state chartered bank, savings bank, savings and loan association, or credit union, and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

Demolition shall be defined as the act of demolishing or razing of a building, structure or part thereof to the ground level or as further defined within a permit or written directive issued by a code official. All voids created shall be backfilled with compactible soil to meet requirements for reconstruction. Disturbances shall be seeded, covered with straw, and maintained.

Driveway shall mean a short private road that leads to a house or garage and which is maintained by the owner or tenant ~~[renter]~~ of the property.

Fence or Privacy Fence shall mean any structure erected to enclose yard areas for security, containment, or privacy. A privacy fence shall be:

- (1) At least six (6) feet in height and comply with OMPC requirements found in Article III, Section 3-7(g)(3);
- (2) Of uniform size and appearance; and
- (3) Properly constructed and self-supporting using a system of posts, stringers, and fasteners of adequate size to support, secure panels, or fence material.

Final Order shall mean any order:

- (1) Issued by the code enforcement board following a hearing in accordance with Sections 5-132, 5-133, and 5-134;
- (2) Created because a violator neither paid nor contested the citation within seven (7) days of the ordinance from which this section is derived; or
- (3) Created because a violator failed to appear at the hearing and the violator failed to contest the citation as provided in Section 5-134(e).

Garage shall mean an enclosed space in which vehicles or personal property is kept. A garage may be attached or unattached to a house on the property.

*Heat supply days.* As used in Section 14 and the International Property Maintenance Code 602.3 and 602.4 of this division shall be the period from September 1 to May 30.

Hobby Vehicles shall:

- (1) Mean vehicles that are not registered, licensed, or insured for on-road use, to include vehicles that are considered historical, collectable, rebuildable, parts cars, or other consideration; and
- (2) Include vehicles used for off-road purposes such as watercraft, dune buggies, four-wheelers, riding lawn mowers, race cars, and trailers used to haul such vehicles.

*Imminent danger* means a condition which is likely to cause serious or life-threatening injury or death at any time.

*Junked appliances* shall mean any unit, or part thereof, of machinery, furniture, or equipment, including recreational equipment, whether functional or ornamental, and whether mechanical or powered by some source of energy or not, including, but not limited to, stoves, refrigerators, television sets, beds, lamps, tools, objects of art, and the like, the condition of which upon inspection, are found to be in one (1) or more of the following conditions:

- (1) Wrecked;
- (2) Dismantled;
- (3) Partially dismantled;
- (4) Inoperative;
- (5) Abandoned;
- (6) Discarded

*Junked motor vehicles* shall mean any vehicle, device or other contrivance, or parts thereof, propelled by human, mechanical, or battery ~~[human or mechanical]~~ power that if operational, would be used for transportation of persons or property whether used on public streets and

highways, or off-road, which upon inspection, are found to be in one (1) or more of the following conditions:

- (1) Wrecked;
- (2) Dismantled;
- (3) Partially dismantled;
- (4) Inoperative;
- (5) Abandoned;
- (6) Discarded

Landscape shall include:

- (1) Hardscape elements; and
- (2) “Non-routine” hardscape elements added to the landscape shall be incorporated into a landscape bed of adequate size and not be free standing.

Non-routine is defined as items not usually found in a business that sells landscape materials. Examples: iron bed headboards, motorcycles, bicycles, wheelbarrows, ladders. It is the intent of this definition to allow inclusion of an element in a landscape bed of proportion and design to the area available.

*Offenses:*

1st offense shall mean a violation of this property maintenance code as per a citation issued on a specific parcel of property on one (1) occasion within a twenty-four (24) month period.

2nd offense shall mean any combination of violations of this property maintenance code as per a citation issued on a specific parcel of property on two (2) occasions within a twenty-four (24) month period.

3rd + offense shall mean any combination of violations of this property maintenance code as per a citation issued on a specific parcel of property on three (3) or more occasions within a twenty-four (24) month period.

OMPC shall mean the Owensboro Metropolitan Planning Commission.

Ordinary view shall mean [means] a sight line within normal visual range by a person on a public street or sidewalk or adjacent real property at ground level. [property.]

Out-of-ordinary view shall mean stored behind a privacy fence or stored in a garage or properly constructed storage/accessory building. Enclosed or covered by tarps or other similar coverings does not constitute out-of-ordinary view.

*Owner* means a person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

*Person* shall mean any individual, firm, business, partnership, association, corporation, company or organization of any kind.

*Premises shall mean* ~~[means]~~ a lot, plot or parcel of land, including any structures upon it.

*Privacy Fence. See Fence or Privacy Fence.*

*Property maintenance code* shall mean and consist of all of the provisions set forth herein and any and all other ordinances hereafter adopted by the city board of commissioners pursuant to KRS 65.8801 et seq. or other nuisance statutes, as may be amended from time to time.

*Property maintenance code enforcement board or code enforcement board or board* shall mean the administrative body erected and acting under the authority of KRS 65.8801 to 65.8840, as adopted by the Owensboro Municipal Code.

*Property maintenance code enforcement officer or code enforcement officer* shall mean and include all city citation officers and other positions authorized to enforce Owensboro Municipal Code, as per Chapter 2, Article III, Division 6, Section 2-102(f)(1).

*Remedy* shall mean the action taken to abate any nuisance, in order to bring the property determined to be in violation, into compliance with the requirements of this property maintenance code.

*Residential property* shall mean real property with one (1) to four (4) dwelling units.

*Rental property* shall mean any real property in which a person receives payment by another for use or occupation of the property, however it shall not include the primary residence of the person receiving payment by another for the use or occupation of the property.

*Street Lawn* shall mean the area between the sidewalk and back of the curb or in the absence of a sidewalk from the right-of-way (ROW) line to the rear of the curb. Street lawn also includes to the edge of any alley behind/beside said residential area if paved or gravel or to the centerline of any grass alley.

Storage/accessory buildings shall:

- (1) Mean buildings, whether permitted or unpermitted by Owensboro Metropolitan Planning Commission (OMPC), in addition to the principle residential structure;
- (2) Have rigid watertight roofs and solid walls with door/windows. Tarps or similar material coverings shall not be considered solid walls or rigid roofs;
- (3) Not be erected or set in side yards and shall be located behind the rear wall plane of the residence a minimum of six (6) feet;
- (4) Be set back three (3) feet off property lines with an overhang minimum of two (2) feet from the property line;
- (5) Have a minimum of six (6) feet separation; and
- (6) Not have a total combined square footage that exceeds the square footage of the ground floor of the residence or principal building located on the property.

Vacant shall mean a residential property which is currently unoccupied or has been unoccupied for a period of at least twelve (12) months by a [with nœ] legal resident or tenant.

Evidence of vacancy shall mean [includes] any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to overgrown or dead vegetation, accumulation of flyers, mail, or trash, disconnected utilities, the absence of window coverings or furniture, and statements by neighbors, delivery persons, or government employees.

Ventilation days shall have the same meaning as used in Section 14 and International Property Maintenance Code 304.14 of this division shall be the period from May 1 to October 31.

**Section 2.** That Chapter 5, Article IV, Division 1., Section 5-129 of the Owensboro

Municipal Code be, and hereby is, amended to read as follows:

Powers and responsibilities of the code enforcement officer(s) include, but are not limited to, conducting investigations, conducting inspections, recording and documenting conditions, obtaining outsourced inspection services, issuance of notice of violation or other notice as authorized herein, issuance of citation, appeal process, abatement of nuisance, right of entry, modifications, and all other powers vested under applicable statutes and this property maintenance code.

Enforcement proceedings under the property maintenance code shall be initiated by the issuance of a notice of violation or a citation by a code enforcement officer.

Except as provided herein, if a code enforcement officer believes, based on his personal observation or investigation, that a person has violated the property maintenance code, he is authorized to issue a citation to the violator. In lieu of a citation, the code enforcement officer may give the violator a notice of violation that a violation has occurred and allow the violator a specified period of time to remedy the violation without fine. The time allowed by the Code Official [~~code official~~] shall depend on the nature of the violation and the time necessary to remedy the violation as determined by the Code Official [~~code official~~]. If the violator has been issued a notice of violation and fails or refuses to remedy the violation within the time specified, the Code Official [~~code official~~] is authorized to issue a citation. Informal settlement of matters under this chapter is encouraged.

The following provisions shall govern all enforcement powers, responsibilities and procedures administered by the code enforcement officer(s):

(a) Notice of Violation: If a code enforcement officer believes, based on the officer's personal observation or investigation, that a person has violated the property maintenance code, the code enforcement officer may issue a notice of violation to the property owner, resident, tenant, occupant, persons having control or management of the property or other violator, allowing that person a specified and reasonable number of days to abate the violation. The violator may, upon request, be allowed a reasonable extension of time to abate the violation without imposition of any charges, costs, penalties, and fees, in the sole discretion of the Code Enforcement Officer or Code Official [~~code official~~]. If the violator fails to abate the violation within the time prescribed therein, the code enforcement officer may issue a citation for the violation.

(b) Notice of Violation Procedure: Notice of violation issued by code enforcement officer for violations of the property maintenance code shall contain the following information:

- (1) The address, location or description of the property found to be in violation of the property maintenance code;
- (2) The date and time of inspection;
- (3) The name and address of the person to whom the notice is issued;
- (4) The date the notice is issued;
- (5) The facts constituting the violation;
- (6) The section of the property maintenance code violated;
- (7) The name of the code enforcement officer;
- (8) The fines, charges, costs, penalties, and/or administrative fees, which may be imposed for the violation if it is not abated in the manner required by the code enforcement officer; and
- (9) The maximum fine that may be imposed under the property maintenance code for the violation in question.

(c) Issuance of Citation: If a code enforcement officer believes, based on the officer's personal observation or investigation, that a person has violated the

property maintenance code, the officer may issue a citation to the property owner, resident, tenant, occupant, persons having control or management of the property or other violator. The citation shall represent a determination by the code enforcement officer that a violation has been committed and that determination shall be final unless it is contested by the alleged violator by appealing to the code enforcement board in the manner prescribed herein.

(d) Citation Procedure: Citations issued by a code enforcement officer for violations of the property maintenance code shall contain the following information:

- (1) The address, location or description of the property found to be in violation of the property maintenance code;
- (2) The date and time of inspection;
- (3) The name and address of the person to whom the citation is issued;
- (4) The date the citation is issued;
- (5) The facts constituting the offense;
- (6) The section of the property maintenance code violated;
- (7) The name of the property maintenance code enforcement officer;
- (8) The fines, charges, costs, penalties, and/or administrative fees, imposed for the violation if the citation is not contested in the manner prescribed within this division;
- (9) The maximum fine that may be imposed under this division for the violation in question if the person elects to contest the citation;
- (10) The procedure for the violator to follow in order to pay the fine or to contest the citation;
- (11) A statement that if the violator fails to pay the fine set forth in the citation or contest the citation within the time allowed, the violator shall be deemed to have waived his/her right to a hearing before the code enforcement board to contest the citation and the code enforcement officer's determination that the violation occurred shall be final; and
- (12) Notice that a lien may be filed against the property on which the violation occurred and that proceedings to enforce the lien may be initiated to collect fines, charges, costs, penalties, and/or fees, including attorney and administrative fees.

(e) Type and Delivery of a Notice of Violation or Citation: A notice of violation and a citation shall each be in writing and shall be reasonably calculated to inform the violator of the nature of the violation. A notice of violation and citation must each be issued by either:

- (1) Personal service via hand-delivery to the property owner, resident, tenant, occupant, persons having control or management of the property or other violator; or
- (2) Leaving a copy of the notice of violation or citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the notice of violation or citation is issued; or



(3) Posting a copy of the citation in a conspicuous place on the premises and mailing a copy of the notice of violation or citation by regular first-class mail of the United States Postal Service to the last known property owner of record as listed in the county property valuation office. Rental property owners shall provide contact information to include mailing address and any individual or entity responsible for property maintenance and/or management, if owner address is different than the Daviess County Property Valuation Administrator (PVA) address listing. Information shall be provided to the Public Works Director of the City of Owensboro at 1410 West Fifth Street, Owensboro, KY 42301 within thirty (30) days of closing on the purchase of the property. Owners of rental property shall ~~may~~ register their properties with the director of the public works department to receive service at any address other than that listed in the county property valuation office. Failure to provide correct contact information, if different than the PVA information, shall not be grounds in itself for appeal of a citation.

(f) Notification of Citation to Code Enforcement Board: After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering a copy of the citation to the administrative official designated by ordinance or by the code enforcement board.

(g) Abatement of Nuisance other than Weeds or Grass: If the violator does not contest the citation within the time prescribed, the city may, through methods as determined by the city, abate the nuisance and the property owner, resident, tenant, occupant, persons having control or management of the property or other violator at the time the violation occurred shall be liable for all fines, fees, abatement costs, and penalties assessed for the violation.

(h) Abatement of Weeds and Grass Nuisance: Upon the issuance and posting of a citation for weeds and/or grass nuisance, the code enforcement officer may ~~may, with the citation, serve the violator with notice that the city shall~~ cause such violation to be abated ~~[after the expiration of seven (7) days]~~ if the person to whom the notice of violation ~~[citation]~~ was issued has not remedied the violation. If the person timely contests the citation, and, after having considered the evidence in the matter, the code enforcement board dismisses the citation or that portion of the citation alleging weeds and/or grass nuisance violations, the city may not recover the abatement costs to remedy the alleged weeds and/or grass violations which were dismissed. If, based on repeated past violations, citations issuance or abandonment of the property as defined, a citation is issued and posted without a notice of violation being first issued, the Code Enforcement Official ~~[code official]~~ may cause the violation to be abated if the person timely contests the citation, and after having considered the evidence in the matter, the code enforcement board dismisses the citation or that portion of the citation alleging weeds and/or grass nuisance violations, the city may not recover the

abatement costs to remedy the alleged weeds and/or grass violations which were dismissed.

(i) Emergency Abatement: Nothing in subsection (g) or (h) above shall prohibit the city from taking immediate action to abate any violation of this property maintenance code without prior notice to the property owner, resident, tenant, persons having control or management of the property, or other occupant when a code official, upon inspection of the property, has reason to believe that a violation presents a serious and imminent threat to any person, the public's health, safety, or welfare, or if in the absence of immediate remedial action, the effects or consequences of a violation will, within reasonable probability, cause irreparable or irreversible harm and/or property damage.

(j) Liability: The code officials charged with the enforcement of this division, while acting within the course and scope of their duties under this division, shall not thereby be rendered liable personally and are hereby relieved from any and all personal liability for injuries and damage to persons or property. Any suit instituted against any code enforcement officer, code official or employee because of a lawful act performed by that officer, code official or employee in the discharge of duties imposed under the provisions of this or any other division shall be defended by the city until final adjudication of any proceedings.

(k) Discretionary Modifications: The code official shall have the discretion to modify a notice of violation or citation provided the officer shall first find that special circumstances that makes strict compliance with this property maintenance code impractical and the modification is in compliance with the intent and purpose of this property maintenance code and that such modification does not violate health, life and fire safety requirements.

(l) The Public Works Director, in conjunction with the City Attorney, is authorized to vacate citations that have been issued improperly or deemed unsubstantiated.

(m) Each Day as a Separate Offense: If the property owner, resident, tenant, occupant, persons having control or management of the property, or other violator does not abate the violation in the time provided, another citation may be issued in accordance with subsection (c) of this section, for each subsequent and separate violation of the property maintenance code and each day that such violation remains may constitute a separate offense under this property maintenance code and may be subjected to a fine of up to one hundred dollars (\$100.00) per day for each day it remains in violation. [~~code~~]

**Section 3.** That Chapter 5, Article IV, Division 1., Section 5-130 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

The following details the appeal process:

(a) Appeal of Citation: When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days following the issuance by either paying the fines, charges, costs, penalties and/or fees, including administrative fees assessed therein, or by filing an appeal in writing with the Public Works Director, 1410 West Fifth Street, Owensboro, KY 42301. [~~public works director, at City Hall, 101 East 4th Street, Owensboro, Kentucky, 42303,~~] requesting a hearing before the code enforcement board. The written appeal shall state the basis for the appeal and request for a hearing before the code enforcement board.

(b) Violation Must Be Corrected: Payment of assessed fines, charges, administrative fees and penalties shall not relieve the property owner, resident, tenant, occupant, persons having control or management of the property, or other violator from his or her obligation to bring the property on which the violation occurred into compliance with the property maintenance code within a reasonable time thereafter, as solely determined by the code enforcement officer.

**Section 4.** That Chapter 5, Article IV, Division 1., Section 5-136 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of violation or citation, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the requirements listed in the notice of violation or the violations listed in the citation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice of violation or citation issued by the code enforcement officer and shall furnish to the enforcement officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation or citation and fully accepting the responsibility without condition for making the necessary corrections and repairs required by such notice of violation or citation, including:

(a) Demolition of said property within 120 days;

(b) Posting of a rehabilitation bond in the amount of ten thousand dollars (\$10,000.00);

(c) Building permit obtained within ninety (90) days; and

(d) Exterior renovations substantially completed within twelve (12) months from issuance of the building permit. [~~citation.~~]

**Section 5.** That Chapter 5, Article IV, Division 1., Section 5-137 of the Owensboro Municipal Code be, and hereby is, amended to read as follows:

(a) Provisions of 2009 International Property Maintenance Code, and future modifications, are adopted by reference herein. The City of Owensboro, Kentucky,

hereby adopts, enacts and incorporates by reference, as if fully set forth herein, in their entirety, sections:

- 108 Unsafe Structures and Equipment
- 201 General
- 202 General Definitions
- 301 General
- 302 Exterior Property Areas (except 308.2.1)
- 303 Swimming Pools, Spas and Hot Tubs
- 304 Exterior Structure
- 305 Interior Structure
- 306 Component Serviceability
- 307 Handrails and Guardrails
- 308 Rubbish and Garbage
- 309 Pest Elimination
- 401 General
- 402 Light
- 403 Ventilation
- 404 Occupancy limitations
- 501 General
- 502 Required Facilities
- 503 Toilet Rooms
- 504 Plumbing Systems and Fixtures
- 505 Water System
- 506 Sanitary Drainage System
- 601 General
- 602 Heating Facilities
- 603 Mechanical Equipment
- 604 Electrical Facilities
- 605 Electrical Equipment
- 606 Elevators, Escalators and Dumbwaiters
- 607 Duct Systems
- 701 General
- 702 Means of Egress
- 703 Fire-Resistance Ratings
- 704 Fire Protection Systems

of the “2009 International Property Maintenance Code” and future modifications, as published by the International Code Council, Inc. [~~Inc., as same may be amended from time to time hereafter.~~] Violations of the provisions therein shall be deemed a nuisance enforceable by any and all provisions of this property maintenance code. Where the language contained in the adopted provisions of the International Property Maintenance Code are in conflict with any other provision herein, the more restrictive language shall govern.

(b) Certain Conditions Declared Unlawful. It shall be unlawful for the owner, resident, tenant, occupant, or persons having control or management of any public or private land within the city to permit such to be in violation of any provision of the International

Property Maintenance Code as adopted herein, to permit a public nuisance, health hazard, or source of filth to develop thereon, or to permit such to contribute to the material devaluation of surrounding real property due to violations of the property maintenance code. A public nuisance shall include, but is not limited to, the following:

(1) Junk; Scrap Metal. The storage or accumulation of tires, auto parts, storage tanks, dumpsters, junk machinery, machinery parts, abandoned, discarded or unused appliances, junked appliances, objects or equipment, salvage materials, or scrap metal (whether recyclable or unrecyclable) within the city limits and in [within the] ordinary view or exceeding five percent (5%) of the privacy fenced-in area (clear space), out of ordinary view, protected from the elements by tarps, except on premises authorized by the city for such purposes;

(2) Accumulation of Construction, Demolition or Landscaping Debris. All exterior property and premises shall be free from any accumulation of combustible and noncombustible waste materials, including any material resulting from maintenance, demolition, repair, alteration or construction of buildings, structures or grounds, or landscaping or natural damage of grounds, including, but not limited to, fallen trees, tree branches, brush and yard trimmings, or any other material considered salvage; ~~[trimmings;]~~

(3) Exterior Use or Storage of Indoor Furniture. The use or storage of furniture which is upholstered or not designed for outdoor use in an uncovered or exposed area in which it is likely to decay, decompose or retain moisture causing a health hazard;

(4) Compost Piles. Any compost pile which is of such a nature as to spread or harbor disease, emit unreasonable, unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance;

(5) Nauseous Substances or Odors. The permitting of any offal, manure, rubbish or filth, decaying animal or vegetable matter, excessive animal excrement or any foul or nauseous substance, or nauseous or offensive odor to be emitted or to be discharged out of or flow from the premises;

(6) Dangerous Trees or Stacks Adjoining Streets. The permitting of any tree, shrubbery, hedge or other object to grow or stand in such a condition that it interferes with the use, construction or maintenance of streets or sidewalks, that could cause injury to streets or sidewalks, or that causes an obstruction to drainage or poses a danger to life, limb or property;

(7) Obstructions of Storm Water and Drainage Facilities. The permitting, placement, blowing, or allowing of ~~[permitting, of any limbs;]~~ leaves, grass clippings or other objects to be placed in a manner that interferes with the use or maintenance of any stormwater curbs/gutters and drainage facilities; placement

of limbs in the street or across sidewalks that interferes with vehicular or pedestrian traffic or blocking of gutters or other stormwater drainage facilities;

(8) Visual Obstructions of Streets. The permitting of any hedge, shrubbery, fence or other visual obstruction on any corner lot to attain a height which prohibits proper sight distance as stated in the sight distance triangle section of the applicable zoning ordinance;

(9) Dilapidated Structures. All buildings, walls and other structures which have been damaged by fire, decay or otherwise and which are in a state of dilapidation, deterioration or decay so as not to provide shelter, sufficient sewer, plumbing, electrical or heating facilities or which are unsound or in danger of collapse or failure and which are a danger to the safety of the public or which are vacant or abandoned and open or accessible to vagrants or passersby or which are otherwise built, erected or maintained in violation of any ordinance;

(10) Obstructions over Streets. All hanging signs, awnings, canopies, wires and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety or to be contrary to ordinance, unless approved by the city;

(11) Stagnant Water. All stagnant water in which mosquitoes, flies or other insects can multiply;

(12) Accumulation of Refuse/Trash Containers. The storing or permitting the accumulation of refuse [~~refuse, unless such refuse is~~] not kept separately in standard refuse/trash containers or dumpsters meeting Sanitation Department standards, which are covered by solid, tight fitting lids and which have no uncovered holes, [~~and the storing or permitting the accumulation of refuse and trash~~] for which removal of refuse and trash is not complying with Sanitation Department Standards and requirements; failure to remove and properly store trash containers within twenty-four (24) hours after service (remove mobile containers from the curb area to behind the front wall plane of the structure being serviced); [~~provided;~~]

(13) Scattering Garbage, Etc. The throwing, placing, or scattering of any garbage, rubbish, trash, or other refuse over or upon any premises, street or alley, either public or private, or adjacent thereto, and either with or without the intent to later remove; [~~remove or burn;~~]

(14) Attractive Nuisances. The allowing of any physical condition, use or occupancy of any property or premises to be an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, standing pools of water, basements, excavations, retaining walls, unsafe fences and refrigerators, freezers, ice chests, ice boxes or similar airtight box or container which has a

locking device inoperable from within, without first unhinging and removing the door or lid and detaching the locking device from the door or lid;

(15) Graffiti. The allowing of any graffiti or allowing graffiti to remain which is defined as any inscription, drawing or design that is scratched, painted, sprayed or placed on any surface of any structure that has no redeeming artistic, moral or social value;

(16) Hoarding of Pet Animals. The keeping of more pet animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the owners or others and without constituting a nuisance to the occupants or neighboring properties, characterized by failure to provide proper food, water, shelter, veterinary care and sanitation to the animals and resulting in squalid living conditions for the animals and the keeper and by complaints from neighbors including, but not limited to, mistreated or neglected animals, stench from the property and rodent and insect infestations; and,

(17) Hoarding of Materials. The accumulation of combustible materials, trash, food, newspapers, magazines, old clothes and other items that create a serious fire and health hazard that can cause disease, contribute to vermin and/or insect infestations, affect the occupants of the building, neighbors, public safety personnel and the general public, or violate any other city safety code.

(18) Rubbish. An accumulation on any property of filth, refuse, trash, garbage, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow rubbish into any street, sidewalk, or property of another.

(19) Storage of Explosives. The storage of explosive material, including, but not limited to fireworks, which creates a safety hazard to other property or persons in the vicinity.

(20) Weeds and Grass. The excessive growth of weeds, grass, or other vegetation, except flowers or other ornamental vegetation, which are properly maintained. Unless otherwise provided, "excessive" shall mean growth to a height of ten (10) inches or more.

(21) Open Wells. The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon private property in any open or unfenced lot or place.

(22) Junked Motor Vehicles. The presence of any junked motor vehicle on public property or on any private lot, tract or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city, except hobby vehicles

that have a maximum of two (2) allowed, out of ordinary view stored and properly tarped for protection from the elements. [~~city and within ordinary view.~~] Further, a junked motor vehicle or parts thereof shall be considered rubbish or refuse, and it shall be unlawful for any person to cause or maintain such public nuisance by wrecking, dismantling, partially dismantling, rendering inoperable, abandoning or discarding any motor vehicle on any real property within ordinary view, provided that this provision shall not apply with regard to:

- a. Any motor vehicle on the property of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or
- b. Any motor vehicle on property occupied and used for repair, reconditioning and remodeling of motor vehicles or appliances in conformance with the zoning code of the city; or
- c. Any motor vehicle as defined in KRS 281.011 that is owned, controlled, operated, managed, or leased by a motor carrier.

(23) Parking in Yards. Parking or storing of any [~~motor~~] vehicle for more than twenty-four (24) hours upon any surface not intended for use as vehicular parking which shall include, but is not limited to, a yard or any space in which access to such necessarily requires the crossing of an uncut curb or other space clearly not intended to allow such access.

(24) Generally. In addition to subsections (b)(1-23) of this section, a public nuisance shall also include, but is not limited to, the following:

- a. The physical condition or occupancy of any property regarded as a public nuisance at common law;
- b. Any unsafe structure or property that is unsafe for human habitation;
- c. Any property that is in imminent danger of becoming a fire or other hazard, or is manifestly unsafe or unsecure, so as to pose an imminent threat or danger to life, limb or property;
- d. Any property from which the plumbing, electrical, heating or other facilities required by this property maintenance code have been removed or from which utilities have been disconnected, destroyed, removed or rendered ineffective and the required precautions against trespassers have not been provided;
- e. Any property that is unsanitary, littered with rubbish or garbage or has uncontrolled weeds growing on it;
- f. Any residence, building, outbuilding or other structure that is in a state of dilapidation, disrepair, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent that it is uninhabitable, in danger of collapse or failure or dangerous to anyone on or near the property.

(c) Unsafe Structure: Imminent Danger. When, in the opinion of the code enforcement officer, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is



endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in proximity of any structure because of explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code enforcement officer is hereby authorized and empowered to order and require occupants to vacate the premises forthwith. The enforcement officer 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 Property Maintenance Code Enforcement Officer." It shall be unlawful for any person to:

(1) Remove any notice posted by an enforcement officer under this subsection;

or

(2) Enter [to enter] such structure except for the purpose of securing the structure, making repairs, removing the hazardous condition or of demolishing the same.

(d) Problem Structures. In that there is a need to establish a period of time a problem structure may remain standing, the appropriate sections of the International Property Maintenance Code dealing with unsafe structures and equipment is amended to add the following:

(1) A problem structure is defined as a building or other structure that poses a nuisance or danger to the public, police department or fire department and includes, but is not limited to the definition in the International Property Maintenance Code, as well as the following:

- a. A building whose interior or exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of the base;
- b. A building, exclusive of the foundation, that shows thirty-three (33) percent or more damage or deterioration to its supporting members or fifty (50) percent or more damage or deterioration to its non-supporting members or to the enclosing or outside walls or coverings;
- c. A building having improperly distributed loads on the floors, or roofs, or in which same are overloaded or have insufficient strength to be reasonably safe to occupants or the public;
- d. A building damaged by fire, wind, seismic or other causes so as to cause the building to become dangerous to life, limb or property of the occupants or to the public;
- e. A building that has become or is so dilapidated, decayed, unsafe, unsanitary or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease or injury to health, safety or general welfare of those living therein;
- f. A building having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein;

- g. A building having inadequate facilities for egress in case of fire or other events, or having insufficient stairways, fire escapes or other means of travel;
- h. A building that has parts or elements that are attached or not attached in such a way that they may fall and cause injury to persons or property;
- i. A building characterized by disconnected utilities, extensive broken glass, excessive peeling or flaking paint on the exterior walls, loose or rotting materials on the roof or the exterior walls; or,
- j. Any vacant building or structure not secured from entry or the elements.

(2) When a problem structure which has been damaged by fire or illegal activity, and which is not in danger of structural collapse, has been closed and secured from entry and the elements and the structure continues to remain closed and secured from entry and the elements by approved methods, it may remain standing in a safe condition for a period not to exceed ninety (90) days from the date of the fire, the date of damage from illegal means or the date of the release of the property from a governmental, criminal, fire or explosives investigation, at which time an application must have been made for a building permit to repair or for a demolition permit. If a building permit is requested and approved, repair or renovation work to bring the property into compliance must be completed within sixty (60) days of the date of the issuance of the permit unless an extension is granted by a code official or the code enforcement board. If a demolition permit is requested and approved, demolition must be completed within the time established in the permit.

(3) Failure of the property owner to keep the structure closed and secured from entry and the elements or to obtain the required permit in the specified time shall constitute permission to a code official, code enforcement officer, employee, or other authorized agent of the city to enter upon the property to remedy the situation and to abate the nuisance which may include abatement by demolition and removal of the problem structure.

(e) Temporary Safeguards. Notwithstanding other provisions of this property maintenance code, whenever, in the opinion of the code enforcement officer, there is imminent danger due to an unsafe condition, the enforcement officer may 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 enforcement officer deems necessary to meet such emergency.

(f) Closing Streets. When necessary for public safety, the code enforcement officer 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 same from being utilized.

(g) Emergency Repairs. For the purpose of this section, the code enforcement officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible within the limits of the appropriations for the department. Cost incurred in the performance of emergency work shall be the responsibility of the property owner.

(h) Demolition General. The code enforcement officer may order the owner of any premises upon which is located any structure, which in the officer's judgment is dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove the structure; or if such structure is reasonably capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two (2) years, to demolish and remove such structure.

(i) Liability for Damages to Removed Vehicle or other Items from Property. No city official, code official, employee, servants, agents, or any department of the city shall be liable for any loss or damage to the junked motor vehicle, junked appliances, rubbish, trash, or other material constituting a violation of the property maintenance code as a result of such being removed from the property or as a result of any subsequent sale or other disposition.

(j) Right of Entry. A code enforcement officer may enter upon public or private property to inspect a suspected violation of the property maintenance code when, in ordinary view, there exists reasonable evidence that a violation exists. If the violator does not request a hearing before the code enforcement board and the property is not brought into compliance, or if the code enforcement board orders the property be brought into compliance and the violator refuses, failure to so comply shall constitute permission to a code official, employee or other authorized agent of the city to enter upon the property to remedy the situation and to abate the violation.

(k) Article Supplemental to Other Regulations.

(1) The provisions of this article are supplemental and in addition to all other regulatory codes, statutes and ordinances heretofore enacted by the city, state or any other legal entity or agency having jurisdiction.

(2) The provisions of this article shall be deemed cumulative of the provisions and regulations contained in the Owensboro Code of Ordinances, save and except that where the provisions of this article and the sections hereunder are in conflict with the provisions elsewhere in this Code, then the more restrictive provisions shall prevail.

**INTRODUCED AND PUBLICLY READ ON FIRST READING**, this the 17th day of  
December, 2019.

**PUBLICLY READ AND FINALLY APPROVED ON SECOND READING**, this the  
7th day of January, 2020.

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Thomas H. Watson, Mayor

ATTEST:

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Beth Cecil, City Clerk