

ORDINANCE NO.

AN ORDINANCE REPEALING AND REPLACING ARTICLE 9 OF CITY CODE CHAPTER 25-12 TO ADOPT THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE AND LOCAL AMENDMENTS; AND AMENDING CITY CODE SECTIONS 25-1-21 AND 2-1-122 TO CORRECT CODE CITATIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Chapter 25-12 is amended to repeal Article 9 (*Property Maintenance Code*) and replace it with a new Article 9 to read as follows:

ARTICLE 9. PROPERTY MAINTENANCE CODE.

§ 25-12-211 PROPERTY MAINTENANCE CODE.

- (A) The International Property Maintenance Code, 2012 Edition, published by the International Code Council ("2012 International Property Maintenance Code") is adopted and incorporated by reference into this section with the deletions in Subsection (B) and amendments in Section 25-12-213 (Local Amendments to the International Property Maintenance Code).
- (B) The following provisions of the 2012 International Property Maintenance Code are deleted. A subsection contained within a deleted section or subsection is not deleted, unless specifically listed below.

Section 101.1		Section 102.3
Section 102.7	Section 103.1	Section 103.2
Section 103.3	Section 103.4	Section 103.5
Section 104.2	Section 104.5	Section 106.2
Section 106.3	Section 107.1	Section 107.2
Section 107.3	Section 107.5	Section 107.6
Section 108.1	Section 108.2	Section 108.3
Section 108.4	Section 108.4.1	Section 108.5
Section 109.1	Section 109.2	Section 109.3
Section 109.4	Section 109.5	Section 109.6
Section 110.1	Section 110.4	Section 111.1

Section 111.2	Section 111.2.1	Section 111.2.2
Section 111.2.3	Section 111.2.4	Section 111.2.5
Section 111.3	Section 111.4	Section 111.4.1
Section 111.5	Section 111.6	Section 111.6.1
Section 111.6.2	Section 111.7	Section 111.8
Section 112.4	Section 201.3	Section 304.3
Section 304.14	Section 304.19	Section 305.1.1
Section 307.1	Section 307.4	Section 309.1
Section 401.3	Section 404.4	Section 404.4.1
Section 404.5	Section 404.5.1	Section 404.5.2
Section 502.5	Section 505.1	Section 505.4
Section 506.3	Section 602.2	Section 602.3
Section 602.4	Section 604.2	Section 604.3.1.1
Section 604.3.2.1	Section 605.3	Section 606
Section 702.1	Section 702.2	Section 702.3
Section 702.5.1	Section 704.1	Section 704.2
Section 704.3		

- (C) The city clerk shall retain a copy of the 2012 International Property Maintenance Code with the official ordinances of the City of Austin.

§ 25-12-212 CITATIONS TO THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE.

In the City Code, “Property Maintenance Code” means the 2012 International Property Maintenance Code adopted by Section 25-12-211 (*Property Maintenance Code*), as amended by Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*). In this article, “this code” means the Property Maintenance Code.

§ 25-12-213 LOCAL AMENDMENTS TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE.

The following provisions are local amendments to the 2012 International Property Maintenance Code. Each provision of this section is a substitute for any identically numbered provision of the International Property Maintenance Code deleted by Section

25-12-211(B) (*International Property Maintenance Code*) or is an addition to the Property Maintenance Code.

101.1 Title. These regulations shall be known as the Property Maintenance Code of City of Austin, hereinafter referred to as the “Property Maintenance Code” or “this code.”

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 technical codes adopted by the City of Austin in Chapter 25-12.

103.1 General. The City Manager shall designate the department or departments charged with enforcement of this code.

103.2 Designation. The City Manager shall designate a code official.

103.3 Deputies. The code official shall have the authority to designate one or more deputy code official(s) to assist with enforcement of this code. Such employees shall have powers and duties as delegated by the code official.

104.2 Inspections. The code official shall make all of the required inspections, or shall consider reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the designated authority.

106.2 Notice of violation. The code official shall serve a notice of violation or order in accordance with applicable requirements of state law and City Code regarding such notice or order.

106.3 Prosecution of violation. Any person failing to comply with a provision, requirement, or prohibition of this code or of any notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction, and the violation shall be a strict liability offense whenever charged by a fine of \$500.00 or less. If any person fails to comply with a provision, requirement, or prohibition of this code or of any notice of violation or order served in accordance with this code, , 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 or property 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 regarding such premises shall be in addition charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

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 and served in compliance with applicable state law and City Code.

A person has a duty to comply with the provisions, requirements, and prohibitions of this even if the code official has not served the person with separate notice personally informing the person of the duty to comply with this code. Violation of a notice or order issued pursuant to this code is a separate offense.

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in this code, City Code, and applicable state law.

107.6 Transfer of ownership. Except as otherwise provided by applicable law, it shall be unlawful for the owner or any other person in control of any property, dwelling unit, or structure that is the subject of a compliance order or as to which a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such property, 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 any other person in control of the unit or structure 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.

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

108.5 Prohibited occupancy. Any occupied structure or property placarded by the code official with a notice to vacate, in accordance with section 908 of this code, 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 or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

109.1 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life or property, or when any structure or part of a structure has fallen and life or property 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 or property because of excavation, 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 or property a notice reading as follows: "This Structure/Property Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure

or property except as authorized for the purpose of securing the structure or property, making the required repairs, removing or abating 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 to persons or property due to an unsafe condition at a structure or property, the code official shall order the necessary work to be done, including the boarding up of openings or securing of access perimeters, to render such structure or property 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.

110.1 General. The code official shall order the owner of any premises upon which is located any structure, equipment, or property condition, which in the code official's 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, equipment, or condition; 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 to demolish and remove such structure.

110.4 Salvage materials. When 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 at the highest price obtainable.

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 authorized by the City to perform solely to remove or abate a violation or unsafe condition, shall be liable to a fine of not less than \$200 or more than \$500 per violation.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the Building Code, the Residential Code, the Plumbing Code, the Mechanical Code, City of Austin Land Development Code, the Energy Conservation Code, the Fire Code, the Solar Code or the Electrical Code, such terms shall have the meanings ascribed to them as stated in those codes.

202.1 Supplemental and replacement definitions. The definitions in this subsection apply throughout this code and supplement the definitions in Section 202 (*General Definitions*) of the 2012 International Fire Code, as published, unless the term is defined in both places, in which case the definition in this subsection replaces and supersedes the definition in Section 202 of the 2012 International Property Maintenance Code.

BOARDING HOUSE. A building, other than a hotel, where lodging with meals for more than six (6) unrelated persons is provided for compensation.

DANGEROUS BUILDING, STRUCTURE OR PREMISES. Any building, structure or premises determined by the code official or code official's designee to be in violation of Section 108 of this code.

ROOMING HOUSE. A building, other than a hotel, where lodging without meals for more than six (6) unrelated persons is provided for compensation.

SUBSTANDARD BUILDING, STRUCTURE OR PREMISES. A building, structure or premises determined by the code official or code official's designee to be in violation of this code or any code referenced therein.

304.19 Gates. All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced in accordance with applicable code requirements:

1. Nominal strength of any structural member is exceeded by nominal loads, the load effects, or the required strength;
2. 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 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; or
6. Foundation systems 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. When repaired otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

SECTION 307

STAIRWAYS, HANDRAILS AND GUARDRAILS

307.1 General. Stairways shall be maintained in good condition and in accordance with the building code in effect at the time of construction. Handrails and guardrails shall be provided and maintained in good condition at stairs, landings, balconies, porches, decks, ramps and other walking surfaces and in accordance with the building code in effect at the time of construction.

307.2 Stairways. For buildings constructed during a time where no building code provision related to stairways was adopted, the following provisions shall apply:

307.2.1. Riser height. The maximum riser height shall be 8 ¼ inches (209 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

307.2.2. Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between vertical planes of the foremost projection of adjacent treads and a right angle to the treads leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 of an inch (9.5 mm).

307.3 Handrails. For buildings constructed during a time where no building code provision related to handrails was adopted, the following provisions shall apply:

307.3.1 Handrails required. A handrail shall be provided on one side of the stair for every exterior and interior flight of stairs having four or more risers. Existing handrails shall be allowed to remain provided such handrails are not be less than 30 inches (762 mm) high or more than 42 inches (1067mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces and are maintained in good condition. Where a handrail is missing or does not comply with this section, a handrail shall be installed in accordance with currently adopted building code requirements.

307.4 Guardrails. For buildings constructed during a time where no building code provision related to guards was adopted, the following ~~exception~~ provisions shall apply:

307.4.1. Guards required. Every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards.

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

307.4.2. Guard Spacing and height. Existing intermediate guards with a maximum spacing which does not allow the passage of a 9 inch (228 mm) sphere (or smaller), shall be allowed to remain, provided such guards are maintained in good condition. Guards shall not be less than 30 inches (762 mm) high above the

floor of the landing, balcony, porch, deck, or ramp or other walking surface. Where guards are missing or do not comply with this section, guards shall be installed in accordance with currently adopted building code requirements.

309.1 Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

Exception: The keeping, maintenance or management of common domestic honey bee colonies, *Apis mellifera* species, shall be in accordance with City Code Chapter 3-6 (*Beekeeping*).

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

404.4 Minimum area. Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet (11 m²). Every habitable room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

Exception: This does not include Efficiency Units under Section 404.6.

404.4.1 Other rooms. With the exception of qualifying Efficiency Units, every bedroom or other habitable room shall contain at least 70 square feet (6.5 m²) of floor area. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet (4.65 m²) for each occupant in excess of two. One child per room not more than 24 months in age will be exempt from these calculations.

404.5 Overcrowding. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

505.1 General requirements for water systems. 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. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Plumbing Code.

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 of 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 installed in a

sealed enclosure so that adequate combustion air is provided and will not be taken from the living space. Direct vent water heaters are not required to be installed within an enclosure. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

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. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide space heating to meet the requirements of this section.

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

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

Exceptions:

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

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 an electrical service having a rating of not less than 100 amperes.

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 Electrical 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 600 volts or less;
2. Busway, rated 600 volts or less;
3. Panelboards, rated 600 volts or less;

4. Switchboards, rated 600 volts or less;
5. Fire pump controllers, rated 600 volts or less;
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 trans-formers;
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.

604.3.2.1 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 Electrical 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.

605.3 Luminaires. Luminaires shall be maintained in good condition and in accordance with the applicable code(s) in effect at the time of construction. For buildings constructed during a time where no code provision related to luminaires was adopted, the following shall be required:

1. Every public hall, interior and exterior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire.

2. Pool and spa luminaries over 15 V shall have ground fault circuit interrupter protection.

605.4 Wiring. Flexible cords, including extension cords, shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings, unless specifically approved by the cord manufacturer for such installation, configuration, and use, and installed by a licensed electrician consistent with the manufacturer's specifications as part of a project permitted by the City that has passed all required inspections.

702.1 General requirements for means of egress. 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 this code as well as provisions of the Fire Code, the Building Code and the Residential Code as applicable.

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

702.3 Locked doors. All 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 Building, Fire or Residential Code as applicable.

702.5 Additional emergency escape and rescue opening requirements. All sleeping rooms in R-2 and R-3, one- and two-family and multiple-family Occupancy Groups shall have at least one emergency escape and rescue opening, unless the sleeping room(s) meet a specific exception of the code under which the building was constructed. An existing emergency escape and rescue opening complies with this Code if the opening satisfies one of the following or if the owner complies with the alternate methods of compliance set forth in Section 702.5.1 below:

1. The existing emergency escape and rescue opening meets the minimum height and width dimensions, openable area and the maximum sill height requirement of the code(s) under which the building was constructed; or
2. Where no code was in effect at the time of construction, an existing emergency escape and rescue opening satisfies this code if it has:
 - a. a minimum net clear openable area of 5 square feet (0.465 m²),
 - b. a minimum net clear opening height of 22 inches (559 mm),
 - c. a minimum net clear opening width of 20 inches (457 mm),
 - d. a sill height not greater than 48 inches (1219 mm) above the floor.

702.5.1 Alternate Method of Compliance for existing emergency escape and rescue openings.

1. The following shall be deemed as an alternate method of compliance for a sleeping room with an emergency escape and rescue opening that does not meet the requirements referenced in Section 702.5:
 - a. Installation of hard-wired, dual chamber smoke alarms with battery backup capability that are served with primary power from the building wiring. The smoke alarms shall be installed inside and outside of the sleeping room and shall be interconnected through either wired or wireless interconnection.

704.1 General requirements for fire protection systems. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Building Code or the Residential Code, and the Fire Code as applicable.

704.2 Smoke alarms. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, 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 and cellars but not including crawl spaces and uninhabitable attics. In dwellings or 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.
4. Single- or multiple-station smoke alarms shall be installed and maintained in other groups in accordance with the Fire Code.

704.3 Power source. In Group R occupancies and in dwellings not regulated as Group R occupancies, 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 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 in areas or locations within such buildings where smoke alarms were not required to be powered by the building wiring under the code in effect at the time of construction and either:

- a. there is no construction, alterations or repairs taking place, or
 - b. the construction, alterations or repairs in progress do not result in the removal of interior walls or ceiling finishes exposing the structure.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.

CHAPTER 9 BUILDING AND STANDARDS COMMISSION

901 GENERAL

The Building and Standards Commission shall have the powers and duties under this Code, City Code § 2-1-122 (*Building and Standards Commission*), and applicable state law. The Commission shall hear evidence from each party present concerning the matters brought before the Commission and shall issue orders regarding the matters, as appropriate. Orders regarding removal or relocation of occupants, or repair, securing, or demolition of buildings shall identify the time period in which work must begin and the time period by which work must be completed.

901.1 Powers and Duties. The Building and Standards Commission shall hear and decide cases concerning alleged violations of the City's housing and building regulations, including regulations that establish minimum standards for the registration, licensure, inspection, use, occupancy and maintenance of buildings, structures and premises. The Commission may order or initiate any action, remedy, response, security, or penalty within its authority under applicable state law or City Code, including:

1. order the repair, within a fixed period, of buildings found to be in violation of an ordinance;
2. declare a building, structure or property to be substandard or dangerous in accordance with the powers granted under state law and the city's ordinances;
3. order, in an appropriate case, action as necessary to abate, repair, remedy, alleviate, or accomplish:
 - vacation of a building, structure, or property;
 - relocation of occupants;
 - removal of persons or property;
 - entry on private property; and
 - demolition or removal of any substandard building, condition, or structure on private property.

4. order or direct any peace officer of the state, including a sheriff or constable or the Austin Chief of Police, to enforce and carry out the lawful orders or directives of the Commission;
5. determine the amount and duration of the civil penalty allowed under state law;
6. hear and decide appeals which may be taken to the Commission; and
7. consider and recommend amendments to the City's housing and building regulations or and ordinances.

901.2 Rules. The Commission shall adopt rules for its own procedure. The rules must establish procedures to provide opportunity for presentation of evidence and testimony in its hearings by persons who are alleged to have violated ordinances.

901.3 Meetings. Meetings of the Commission are held at the call of the Chairperson and at other times as the Commission may determine. The Chairperson, or the Acting Chairperson in the absence of the Chairperson, may administer oaths and compel the attendance of witnesses. Four members constitute a quorum and the concurring vote of four members is necessary to take any action under this chapter. The Commission shall render all decisions and findings in writing to the appellant in accordance with the applicable requirements of state law and City Code.

901.4 Records. The Commission shall keep records of its hearing, decisions and other official actions, which shall be filed in the office of the code official. The code official shall keep the minutes of the Commission meetings, showing the vote of each Commission member on each question submitted to the Commission, or the fact that a member is absent or fails to vote.

901.5 Notice. Notice and any required recordation of all Commission hearings, orders, or actions shall be posted, filed, served, accomplished or disseminated in accordance with the applicable provisions of state law and City Code.

901.6 Orders. An order issued by the Commission under this section is final unless appealed in accordance with Chapter 54 of the Texas Local Government Code.

902 FAILURE TO COMPLY WITH A COMMISSION ORDER IS AN OFFENSE

902.1 Criminal Offense and Penalty. A person commits an offense if the person fails to comply with a final order issued by the Building and Standards Commission under this chapter. Each day that a person fails to comply with a final order is a separate occurrence. An offense under this section is a class C misdemeanor. The maximum penalty shall be \$500 per offense, per occurrence. Proof of a culpable mental state is not required for conviction of an offense under this chapter.

902.2 Civil Offense and Penalty. A person must comply with a final order issued by the Building and Standards Commission. A person who fails to comply with the Commission's final order commits a civil offense punishable by a maximum fine of \$1,000 a day for each day that the person fails to comply with the order as provided by Chapter 54 of the Texas Local Government Code. Criminal conviction under 902.1 does not preclude assessment or enforcement of applicable civil penalty for violation of a Commission Order.

902.2.1 Satisfaction of Civil Penalty.

1. This section applies to a civil penalty assessed under Section 902.2 of this Code for violations relating to a:
 - 1.1 structure that is designated as an historic landmark or located in a designated historic district; or
 - 1.2 single-family residential structure.
2. The code official shall accept as full payment of the civil penalty an amount equal to the assessed penalty minus the cost to complete repairs or other corrective action required by the Building and Standards Commission order establishing the penalty if:
 - 2.1 all repairs or other corrective action required by the Building and Standards Commission order establishing the penalty have been completed;
 - 2.2 the code official has determined that all repairs or other corrective action comply with City regulations; and
 - 2.3 a lawsuit based on the Building and Standards Commission order assessing the penalty has not been initiated by the City.
3. The person subject to the civil penalty must provide evidence to the code official of the cost of repairs or other corrective action required by a Building and Standards Commission order.
4. The code official shall determine whether the costs provided under Subsection 3 of this section are associated with a repair or other corrective action ordered by the Building and Standards Commission. The determination by the code official under this subsection may not be appealed.

903 DEFINITION OF NUISANCE

Each of the following is declared to be a nuisance for purposes of this code:

1. Any public nuisance known at common law or in equity jurisprudence.

2. Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human health or is detrimental to health, as determined by the health officer.
4. Uncleanliness, as determined by the health officer.
5. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.
6. Occupancy or use of the residential part of a mixed occupancy building if the non-residential part of the building is classified for use as a high hazard occupancy, or if the non-residential use is obnoxious or offensive to residential occupancy or use.
7. A utility room not maintained free of flammable liquids, oil and grease, and other similar materials.
8. Yards, courts, and vacant lots not maintained clean and free of holes, excavations, dead trees and tree limbs, sharp protrusions, and other objects, conditions and hazards that are reasonably capable of causing injury to a person.
9. Failure to maintain a manufactured residential building, mobile home, or tourist court in accordance with the provisions of this code, the manufacturer specifications under which the structure was constructed, or the Land Development Code.

904 ACTION BY THE CODE OFFICIAL

904.1 General.

904.1.1 Commencement of Proceedings. Whenever the code official has inspected or caused to be inspected any building, structure, or property and has found that the building, structure or property is substandard or dangerous, the code official shall begin proceedings to cause the repair, rehabilitation, vacation, demolition, removal, boarding or fencing or other means of closure of the building, structure, or property.

904.1.2 Notice. The code official shall issue a written notice directed to the record owner of the building, structure or property. The notice shall:

1. identify the building, structure, property by street address, or provide a description sufficient for identification of the property or the location of the building or structure;
2. state that the code official has found the building, structure, or property to be substandard or dangerous, with a summary description of the applicable provisions of this Code and the alleged violations;
3. specify the corrective measures required to bring the building, structure, or property into compliance with applicable provisions of this Code;
4. provide a time period for compliance;
5. include a description of the applicable appeal procedures; and
6. include a provision in Spanish stating that a Spanish translation will be provided on request if the recipient is not able to read the notice in English.

904.1.3 Service of Notice. Notice as required shall be served in compliance with applicable provisions of state law and City Code. Failure of the code official to serve any person required to be served does not invalidate any proceedings as to any other person properly served or relieve that person from any duty or obligation imposed by this Code.

904.1.4 Service of Notice. Required notice shall be served in accordance with applicable provisions of state law and City Code.

904.1.5 Method of Service. Required notices shall be served via any method or combination of methods permitted in accordance with applicable requirements of state law and City Code. The code official may also provide a copy of any notice sent to a property owner to the manager of the property. On receipt of a copy of the notice under this section, a property manager shall notify the owner of the specifics of the notice within 10 days and shall make every reasonable effort to have the owner correct the violation.

905. Appeal. A person affected by a notice may appeal the violation findings contained in the notice to the Building and Standards Commission by filing a written appeal with the code official. The appeal must be filed not later than 20 days after the date the notice is mailed by the City of Austin. A request for additional time to comply with the notice due to financial inability or other extenuating circumstance is not a proper basis for appeal, but can be presented to the Commission upon hearing. An appeal must contain a brief statement identifying the notice or action being appealed, setting forth any facts supporting the appeal, describing the relief sought, and presenting the reasons why the appealed notice or action should be reversed, modified or otherwise set aside. Filing an appeal stays further City action under the notice being appealed unless otherwise provided in this code or, in the opinion of the code official, a delay would present an immediate danger or unreasonable risk to any person or property.

906 REPAIR, BOARDING, FENCING, VACATION AND DEMOLITION

The following standards shall be followed by the code official (and by the Building and Standards Commission if an appeal is taken) in recommending or ordering the repair, vacation, or demolition of any substandard or dangerous building, structure, or property:

1. Any building or structure declared a substandard or dangerous building under this Code shall be made to comply with one of the following:
 - 1.1 The building(s) or structure(s) shall be repaired in accordance with applicable Codes related to the type of substandard or dangerous conditions requiring repair; or
 - 1.2 The building or structure shall be demolished; or
2. If the building or structure is in a condition as to make it immediately dangerous to the life, limb, property, or safety of the public or its occupants, it shall be ordered to be vacated.
3. If the owner or other affected person does not comply with the recommendation of the code official within the identified time period, the code official may serve notice to the person(s) to appear before the Building and Standards Commission to show cause why the building, structure, or property should not be ordered repaired, boarded, fenced, vacated, or demolished.

907 UTILITY TERMINATION

907.1 Utility Termination Authorized. The code official may initiate a request or order for utility termination to a structure or property as provided for under the applicable provisions of state law and City Code. The City shall comply with applicable provisions of state law and City Code regarding notice and appeal of utility termination.

908 NOTICE TO VACATE

908.1 Placarding. For a building, structure, or property ordered vacated by the code official or by the Building and Standards Commission, the following shall be required:

1. In addition to any other requirements of this Code as applicable, the code official shall placard each entrance or exit of the building, structure, or property with a notice to vacate issued pursuant to the Code. The notice shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

IT IS UNLAWFUL TO OCCUPY THIS BUILDING/PROPERTY

OR TO REMOVE OR DEFACE THIS NOTICE.

CODE OFFICIAL
CITY OF AUSTIN

908.2 Compliance. The code official shall reference the notice to vacate in the violation letter issued under Section 904.1.2 of this Code and shall identify the conditions that necessitate the evacuation of the building, structure, or property. No person may remain in or enter any building, structure, or property that is posted with or subject to a notice to vacate unless an active permit from the building official to repair, abate, demolish, or remove a building, structure, or condition at the location is posted there and the person is present only to perform work authorized by such permit. No person may remove or deface the notice to vacate after it is posted by the code official until the required repair, abatement, demolition, or removal is completed and a certificate of occupancy is issued for the building or structure by the building official or release of the notice to vacate is issued by the code official. No person may induce, allow, or authorize another person to occupy a building, structure, or property subject to a notice to vacate or a vacate order until after the required corrective action is completed and a certificate of occupancy for the building or structure is issued by the building official or the vacate notice or order is removed and released by the code official. That the posted notice or order to vacate was defaced or removed by another person acting unlawfully or by an act of nature is not a defense to prosecution for committing, allowing, or facilitating entry or occupancy of a building, structure, or property subject to a notice or order to vacate.

908.3 Appeal of Notice to Vacate. A determination by the code official under this section may be appealed as provided in this Code for other code official notices, except that the filing of an appeal shall not stay vacation of the building, structure, or property. A determination by the Building and Standards Commission under this section may be appealed as provided for by state law.

909. Offenses - Criminal.

1. A person commits an offense under this section if the person does the following:
 - 1.1 remains in or enters any building, structure, or property that is posted with a notice or order to vacate;
 - 1.2 removes or defaces a notice or order to vacate that is posted until after the required corrective action is lawfully completed and a certificate of occupancy is issued by the building official for the structure or the vacate notice or order is released and removed by the code official; or
 - 1.3 leases, lets, or otherwise induces occupancy of a building, structure, or property after a notice or order to vacate is issued and posted until

after the required corrective action is lawfully completed and a certificate of occupancy is issued by the building official for the structure or the vacate notice or order is released and removed by the code official.

2. It is not a defense to prosecution under this section that a notice or order to vacate has been removed from the premises.
3. It is an affirmative defense to prosecution under this section if a person enters into a building, structure, or property for which a notice or order to vacate has been issued and posted for the purpose of performing corrective action authorized under a valid permit issued by the building official.
4. An offense under this section is a class C misdemeanor, punishable by a fine not to exceed \$500 per offense, per occurrence, unless proof of a culpable mental state is pled and proven.
5. Each day a person commits an offense or remains in violation of a provision of this section is a separate occurrence.
6. Proof of a culpable mental state is not required for conviction of an offense under this section and is expressly waived for any prosecution for which a fine of \$500 or less for the offense is assessed. If proof of a culpable mental state is established, an offense under this section is eligible for imposition of a fine not to exceed \$2,000 for each offense.

910. Offenses - Civil.

1. A person shall not do the following:
 - 1.1 remain in or enter any building, structure, or property that is posted with a notice to vacate;
 - 1.2 remove or deface a notice or order to vacate that is posted until after the required corrective action such as repair, demolition, abatement, or removal of the building, structure, or property is completed and a certificate of occupancy for the structure is issued by the building official or the notice or order to vacate the property is released and removed by the code official; or
 - 1.3 lease, let, or otherwise induce the occupancy of a building, structure, or property after a notice or order to vacate is issued and posted until after the required corrective action such as repair, demolition, abatement, or removal is completed and a certificate of occupancy for the structure is issued by the building official or the notice or order to vacate the property is released and removed by the code official.

2. Under Chapter 54 of the Texas Local Government Code, a person who commits any of the acts prohibited in subsection 1 of this section commits a civil offense punishable by a fine not to exceed \$1,000 a day per violation or occurrence.
3. Criminal conviction under Section 909 does not preclude enforcement under this section or other provisions of applicable state law and City Code.

911 EMERGENCY POWERS

911.1 Emergency Closure. The code official may secure a building, structure, or property before a public hearing is held by the Building and Standards Commission if the code official determines that the building, structure, or property meets one of the following criteria:

1. violates this Code and is unoccupied; or
2. is occupied only by persons who do not have a lawful right of possession to the building or structure.

911.2 Notice.

1. Not later than the 10th day after the date the building, structure, or property is secured, the code official shall give notice of the closure to the owner by one of the following methods:
 - 1.1 personal service to the owner; or
 - 1.2 notice by certified mail, return receipt requested, to the owner at the owner's last known address; or
 - 1.3 if personal service cannot be obtained and the owner's post office address is unknown, either by publication at least twice within a 10 day period in a newspaper of general circulation in the county in which the building or structure is located or by posting the notice on or near the front door of the building or structure.
2. The notice must contain the following:
 - 2.1 an identification, which is not required to be a legal description, of the building or structure and the property on which it is located;
 - 2.2 a description of the violations of the Code that are identified at the building, structure, or property;
 - 2.3 a statement that the code official has secured the building, structure, or property; and

- 2.4 an explanation of the owner's right to request a hearing about any matter relating to the securing of the building, structure, or property by the code official.

911.3 Appeal of Emergency Closure. The owner of a building, structure, or property may appeal an emergency closure under this section to the Building and Standards Commission. A written appeal must be filed not later than 30 days after the date the code official secured the building, structure, or property. A hearing on the appeal will be scheduled on the Commission's next available agenda date following receipt of the appeal and must be heard at the next available agenda date at which a quorum of the Commission is present, unless the appellant in writing requests or agrees to a postponement of the hearing on the appeal to a later Commission agenda.

911.4. Costs. The City may assess costs incurred for emergency closures under this section against the owner of the affected property and may secure those costs with a lien against the affected property in the manner authorized by state law.

912 LEGAL ACTION

The code official may enforce the provisions of this Code by pursuing all civil and criminal actions, and civil and injunctive remedies available to a city under state law, or by any other remedy or combination of remedies available at law or equity, including, in any court action, the collection of attorney's fees and costs, and maximum interest on liens and judgments as allowed by law. All remedies authorized under this code are cumulative of all others unless otherwise expressly provided. The filing of a criminal action shall not preclude the pursuit of a civil or administrative action for violation of this Code, nor shall the filing of a civil action preclude the pursuit of any other action or remedy, whether administrative or criminal.

CHAPTER 10 RESTRICTION ON TRANSFER AND LEASE OF PROPERTY

1000 TRANSFER OF PROPERTY

1000.1 Execution of Order Not Affected by Transfer. When an order has been filed in the deed records, execution of the order is not affected by sale or other transfer of the property. A person acquiring an interest in property after an order has been recorded is subject to the requirements of the order. The provisions of this subsection shall be included as part of each order.

1000.2 Transfer of Property. An owner of a building, structure, or property who has been served with a notice, order, or other notification under this Code may not sell, transfer, grant, mortgage, lease, or otherwise dispose of the building, structure, or property until the owner has:

1. furnished to the purchaser, transferee, grantee, mortgagee, or lessee a true copy of the notice, order or other notification; and

2. simultaneously provided adequate notice to the code official of the owner's intent to enter into a transaction affecting the building, structure, or property, including the name and address of the proposed buyer, transferee, grantee, mortgagee, or lessee.

1000.3 Responsibility of Purchaser. A purchaser of a property on which a notice, order, or other notification has been issued under this Code and recorded in the real property records of the county in which the property is located is bound by the terms of the notice, order, or other notification.

CHAPTER 11 RESTRICTION ON TRANSFER AND LEASE OF PROPERTY

1100 LEASING OF SUBSTANDARD OR DANGEROUS PREMISES IS AN OFFENSE

1100.1 Criminal Offense and Penalty.

1. A person commits an offense if, prior to the time that the owner receives notice in writing from the code official that all required corrections have been made, the person does the following:
 - 1.1 leases or causes to be leased a building, structure, property, or portion of a building, structure, or property that is vacant at the time that the owner receives notice from the code official that the building, structure, or property is substandard or dangerous; or
 - 1.2 leases or causes to be leased a building, structure, or property or portion of a building, structure, or property that becomes vacant after the owner receives notice from the code official that the building, structure, or property or is substandard or dangerous.
2. Each day that a person commits an offense or remains in violation of this section is a separate occurrence. An offense under this section is a class C misdemeanor, punishable by a fine not to exceed \$500 per offense, per occurrence unless proof of a culpable mental state is pled and proven. If proof of a culpable mental state is established, an offense under this section is punishable by a fine not to exceed \$2,000 per occurrence.

1101.2. Civil Offense and Penalty.

1. A person may not, prior to the time that the owner receives notice from the code official that all required corrections have been made, lease or cause to be leased a building, structure, property, or portion of a building, structure, or property that is vacant at the time that the owner receives notice from the code official that the building or structure is substandard or dangerous; or

2. A person may not, prior to the time that the owner receives notice from the code official that all required corrections have been made, lease or cause to be leased a building, structure, property, or portion of a building, structure, or property that becomes vacant after the owner receives notice from the code official that the building or structure is substandard or dangerous.
3. Under Chapter 54 of the Texas Local Government Code, a person who commits any of the acts prohibited in this Section 1101.2 commits a civil offense punishable by a fine not to exceed \$1,000 a day per violation, per occurrence.
4. Criminal conviction under Section 1100.1 of this Code does not preclude enforcement under this section or other applicable law.

CHAPTER 12 LANDLORD/TENANT RELATIONSHIPS

1201 RESPONSIBILITY OF LANDLORD

The owner of a building, structure, or property remains responsible for compliance with this Code notwithstanding any rental or other agreement purporting to give tenants or other third parties certain duties or responsibilities with respect to the building, structure, or property.

1202 RETALIATION AGAINST TENANT IS AN OFFENSE

A property owner, owner's agent, management company, or other person responsible for managing a property commits an offense if the property owner, owner's agent, management company, or other person responsible for managing a property raises a tenant's rent, diminishes services to the tenant, or attempts eviction for reasons other than nonpayment of rent or other good cause for six months after a complaint is filed by the tenant with the code official complaining of violations of this Code or for six months after completion of repairs required by a notice or order issued under this Code, whichever time period is longer.

An offense under this section is a class C misdemeanor, punishable by a fine not to exceed \$500 per offense, per occurrence unless proof of a culpable mental state is pled and proven. If proof of a culpable mental state is established, an offense under this section is punishable by a fine not to exceed \$2,000 per occurrence.

The following actions are not a violation of this section:

1. an increase in rent under an escalation clause for utilities, taxes, or insurance in a written rental agreement;
2. an increase in rent or reduction in services against the complaining tenant which are a part of a pattern of rental increases or service reductions

uniformly applied for an entire multifamily dwelling project of four or more units; and

3. an increase in rent that is reasonably related to repairs or improvements actually made by the landlord after a complaint has been filed and which do not cause the total rent to exceed fair market value of the premises. However, no rental increase may be made until the structure is in full compliance with any notice or order issued under this Code.

CHAPTER 14 INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

1401 GENERAL

No person shall obstruct, impede, or interfere with work performed by any of the following individuals for purposes of boarding, securing, repairing, vacating or demolishing a building, structure, or property under the provisions of this Code, or in performing a necessary act preliminary or incidental to work authorized under this Code:

1. an officer;
2. an employee;
3. a contractor;
4. an authorized representative of the City;
5. a person who owns or holds an estate or interest in a building, structure, or property; or
6. a person to whom such a building has been lawfully sold under this Code.

CHAPTER 15 PERFORMANCE OF WORK REQUIRED FOR COMPLIANCE WITH A COMMISSION ORDER

1501 GENERAL PROCEDURE

1501.1 Demolition and Remediation authorized. In addition to any other remedy provided in this section, and on the failure of the owner to comply with any predicate or requirement of an order of the Building and Standards Commission, the code official may perform, procure, or contract for any work, services, materials, accommodations, or action required of the property owner by the Commission Order, including that the code official may perform or obtain engineering surveys or inspections, cost estimates, construction scheduling, asbestos testing, design services, plan preparation, permitting, fencing, stabilization, grading, filing, draining, the closure of a building, the vacation and relocation of occupants, the removal of personalty or disposal of debris, and the treatment or cleaning of the premises and the lot. The expense of closing, cleaning, abatement, remediation, relocation, or for any other work or preparation performed or obtained by the code official because of the property owner's failure to comply with a Commission order, shall be paid and recovered as provided by this Code and other applicable law.

1501.2 Personalty on the Premises. Removal of personalty from a structure ordered vacated or demolished shall be accomplished by the property owner. Personalty remaining on the property at the time of demolition by the city or city officer, employee, contractor, or authorized representative is considered abandoned, and may be removed by the city in the same manner as other rubbish or debris.

1501.3 Costs. The cost incurred by the city or city officer, employee, contractor, or authorized representative in repairing, remediating, vacating, relocating occupants from, closing or cleaning a structure, building, or property pursuant to action of the code official or Building and Standards Commission following an owner's failure to comply with a Commission Order shall be paid from demolition funds budgeted by the city council, unless otherwise provided for or directed by Commission order or applicable law. The expense incurred by the City under this section for action necessary to secure compliance with a Commission Order because of an owner's failure to comply may be recorded as a lien against the real property on which the building or noncompliant condition is located, with interest on the unpaid balance to accrue at the maximum rate established by law.

1502 GENERAL

Demolition, boarding, fencing, securing, vacation or relocation of occupants or other closure, repair, treatment, permitting, inspection, testing, analysis, engineering studies, assessment, or remediation of a building, structure, or property may be accomplished by an owner or by the code official, unless otherwise provided for or as directed by Commission order or applicable law. The City may assess the property owner costs incurred for demolition, boarding, fencing, securing, vacation or relocation of occupants or other closure, repair, treatment, remediation, or similar action identified in this section. The expense incurred by the City under this section may be recorded as a lien against the real property on which the building, structure, or noncompliant condition is located, with interest on the unpaid balance to accrue at the maximum rate allowed by law, unless otherwise provided for by applicable law.

PART 2. Subsection (A) of City Code Section 2-1-122 (*Building and Standards Commission*) is amended to read:

- (A) The Building and Standards Commission is established to hear cases concerning alleged violations of the City's regulations and ordinances relating to the condition and minimum standards maintenance of existing residential and nonresidential structures, premises, property, and establishments [~~property maintenance, housing, and dangerous buildings~~].

PART 3. Subsection (113) of City Code Section 25-1-21 (*Definitions*) is amended to read:

(113) TECHNICAL CODE means the International [~~Uniform~~] Building Code, the National Electrical Code, the Uniform Mechanical Code, the Uniform Plumbing Code, the International [~~Uniform~~] Fire Code, the Uniform Solar Energy Code [~~Guidelines for Solar Energy Installations~~], or the International Property Maintenance Code [~~Uniform Code for the Abatement of Dangerous Buildings~~], as adopted by the city council.

PART 4. This ordinance takes effect on August 1, 2013.

PASSED AND APPROVED

_____, 2013 §
 §
 § _____
 Lee Leffingwell
 Mayor

APPROVED: _____ **ATTEST:** _____
 Karen M. Kennard Jannette S. Goodall
 City Attorney City Clerk