



8425 Airport Road

Berkeley Missouri 63134-2098

(314) 524-3313

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN by the City Council of the City of Berkeley that a public hearing will be held at 7:00 pm on Monday, November 07, 2016 in the City Hall Council Chambers, 8425 Airport Road, Berkeley, Missouri 63134, for the purpose of considering the following proposition:

Case # 16-15: Shall the Zoning Code be Amended by Adding New Definitions and Creating a New Section in Chapter 500 Entitled, "Model Housing Code" in the City of Berkeley, Missouri?

All interested parties shall be afforded, at such public hearing, a reasonable opportunity to express their views regarding the item set forth above.

Deanna L. Jones – City Clerk, MPCC/MMC

If you are a person with a disability and have special needs, please notify the City Manager at (314) 524-3313, no later than 48 business hours prior to the meeting. The City will make reasonable accommodations upon your arrival at the meeting.

Posted: Tuesday, October 18, 2016 by 5:00 PM



REPORT TO CITY COUNCIL

TO: The Honorable Mayor and Members of the City Council

FROM: Debra Irvin, Municipal Services Manager/Building Commissioner

DATE: October 14, 2016

SUBJECT: **Case # 16-15:** Amending the Zoning Code by Adding New Definitions and creating a new section in Chapter 500 Entitled, "Model Housing Code"

ZONING DESCRIPTION

The Model Housing Code (MHC) will be a new addition to Chapter 500; however, all definitions be added to Chapter 400 of the zoning code. The MHC will be a more definitive guide for inspectors to use when performing housing inspection and all information will be contained in one section of the code.

PLAN COMMISSION RECOMMENDATION

Plan Commission recommends Bill 4489 back to City Council to consider and approve the Model Housing Code.

Recommend Revised Bill 4489 by adding definitions for the Building Inspector, Housing Inspector, Code Enforcement Officer, add Mechanical Code requirements, identify adopted codes (Plumbing, Electrical and Property Maintenance) and correct necessary errors in the ordinance.

SUPPORTING DOCUMENTS

- -Staff Report
- -Ordinance (Bill 4489 Revised)

OPTIONS OF THE COUNCIL

1. -Council approval of the request.
2. -Council denial of the request.

A Public Hearing will be held by the City Council on Case No. 16-15 – (Amending the Zoning Code by Adding New Definitions and creating a new section in Chapter 500 Entitled, "Model Housing Code")

BILL NO. _____

ORDINANCE NO. _____

INTRODUCED BY:

AN ORDINANCE OF THE CITY OF BERKELEY CREATING NEW SECTION 540 IN CHAPTER 500 ENTITLED, "MODEL HOUSING CODE"

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY AS FOLLOWS:

Section 1. Purpose. Creating a model housing code will uniformly enhance the inspection process to ensure that residents of the City are living in decent, safe and sanitary housing units.

Section 2. Definitions. Unless the context clearly indicates a different meaning, the following words or phrases when used in this Section shall have the following meanings:

ACCESSORY STRUCTURE: A detached structure, including, but not limited to, garages, carports, fences, tool sheds, playhouses and tree houses, subordinate to the main or principal structure, the use of which is customary to the main building.

BASEMENT: That portion of a structure which is partly underground but having less than fifty percent (50%) of its ceiling height thirty-six (36) inches above the average grade of the adjoining ground.

BATHROOM: A room affording privacy containing bathing and sanitary facilities provided within each dwelling unit consisting of a water closet, a tub or shower and a lavatory basin.

BOARDING HOUSE: A structure arranged or used for lodging, with or without meals, for compensation.

BUILDING INSPECTOR: Qualified professional delegated by a jurisdiction to do perform building inspection for residential, commercial, and industrial [properties for code violations, including but not limited to health, safety and welfare.

CHANGE OF OCCUPANCY: Circumstances wherein the composition of the residents of a dwelling unit changes either through the sale, lease, rental or other provision for the occupancy of any dwelling unit or by the addition of one (1) or more persons to the number of residents of a dwelling unit except by birth or legal custody.

CODE ENFORCEMENT OFFICER: a non-sworn inspector, officer or investigator, employed by the city, who possesses specialized training in, and whose primary duties are the prevention, detection, investigation, and enforcement of violations of laws regulating public nuisance, public health, safety, and welfare, public works, business activities and consumer protection, building standards, land-use, or city affairs.

CONDITIONAL OCCUPANCY PERMIT: A document which states the names, dates of birth, relationships and number of occupants of a dwelling unit which does not comply with all of the provisions of this Chapter. It is issued only under specified circumstances elsewhere in the City codes for a limited specified length of time.

DETERIORATION: The condition of appearance of a building or part thereof characterized by evidence of physical decay or neglect, excessive use or lack of maintenance.

DORMITORY: A structure arranged or used for lodging and having common toilet and bathroom facilities.

DWELLING: A structure or portion thereof, which is wholly or partly designed for or used for human habitation.

DWELLING UNIT: Two (2) or more rooms or part thereof in a structure usable for occupancy by one (1) family for living purposes and having its own permanently installed cooking and sanitary facilities.

ENFORCEMENT OFFICIAL: The official designated herein or otherwise charged with the responsibilities of administering this Chapter in the absence of the Building Commissioner.

EXTERIOR APPURTENANCES: Objects, which are added to a structure for aesthetic or functional purposes. These include, but are not limited to, screens, awnings, trellises, television antennas, storm windows, and storm doors.

EXTERMINATION: The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Building Commissioner of the City.

FAMILY: One (1) or more persons occupying a dwelling and living as a single housekeeping unit, all of whom, or all but two (2) of whom are related to each other by birth, adoption or marriage, as distinguished from a group occupying a residential group home or hotel as defined in this Section.

FENCE: An existing accessory structure forming a barrier at grade between lots, between a lot and a street or an alley or between portions of a lot or lots. A barrier includes a wall or latticework screen but excludes a hedge or natural growth or a barrier less than eighteen (18) inches in height which is used to protect plant growth.

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

GUTTER: A trough under an eave to carry off water.

HABITABLE ROOM: Every room in any structure in which persons sleep, eat, or carry on their usual domestic or social vocations or avocations. It shall not include private laundries, bathrooms, toilet rooms, water closet compartments, pantries, storerooms, foyers, closets, and corridors, rooms for mechanical equipment for service in the building or other similar spaces not used by persons frequently or during extended periods.

HOUSING INSPECTOR: Perform inspections of the interior and exterior of real properties to insure compliance for new occupancy or re-inspection.

IDENTIFICATION, Means of: Valid State issued Driver's license, Valid State Issue Id (not membership cards), Marriage Certificates, Passports, Green card, visas; Birth certificates, and valid foreign identification

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

KITCHEN: A room or part of a room, which contains a sink and adequate space for installing cooking and refrigeration equipment and for the storage of cooking utensils.

LOWER LEVEL: That portion of a building, which is underground but having fifty percent (50%) or more of its ceiling height thirty-six (36) inches above the average grade of the adjoining ground.

MANAGER: Any person who has charge, care or control of a building or part thereof, which is let or offered for occupancy.

MULTI-FAMILY DWELLING: A structure or portion thereof designed or altered for occupancy by two (2) or more families living independently of each other in separate dwelling units.

Whenever the words "multi-family dwelling", "residence building", "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this Code, they shall be construed as though they were followed by the words "or any part thereof".

OCCUPANCY PERMIT: A document which states the names, dates of birth, relationships and number of occupants of a dwelling unit and that the occupancy complies with all of the provisions of this Chapter. It is issued under the circumstances listed in this Chapter.

OCCUPANT: Any person living and sleeping in a dwelling unit.

ONE-FAMILY DWELLING: A structure containing one (1) dwelling unit

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

OWNER: Any person, firm or corporation who, alone, jointly or severally with others, shall be in actual possession of or have charge, care or control of any dwelling or dwelling unit within the City as owner, employee or agent of the owner or as trustee or guardian of the estate or person of the title holder and such person shall be bound to comply with the provisions of this Chapter to the same extent as the owner.

PERSON: A corporation, firm, partnership, association, organization and any other group acting as a unit as well as any individual. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "*person*" is used in any Section of this Chapter prescribing a penalty or fine, as to partnership or associations, the word shall include the partners or members thereof and, as to corporations, shall include the officers, agents, or members thereof who are responsible for any violation of such Section.

PLUMBING: Facilities and equipment including, but not limited to, the following: gas pipes, gas-burning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar fixtures, together with all connections to water, sewer, vent or gas lines.

PREMISES: A lot, plot, or parcel of land or any part thereof including the buildings or structures thereon.

PROVIDED: Any material furnished, supplied, paid for or under the control of the owner.

PUBLIC WORKS DIRECTOR shall be the Building Commissioner, and shall perform the duties assigned to the Building Commissioner by the Building Code.

PUBLIC HALLWAY: A hallway, corridor, or passageway for ingress into and/or egress from a dwelling not within the exclusive control of one (1) family or dwelling unit.

REPAIR: To restore to an acceptable state of operation or serviceability. Repairs shall be expected to last approximately as long as would the replacement by new items.

REPLACE: To remove an existing item or portion of a system and to construct or install a new item of similar or improved quality as the existing item when new. Replacement will ordinarily take place when the item is beyond repair.

ROOMING UNIT: Any habitable room or group of habitable rooms or any part thereof forming a single unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

RUBBISH: Non-putrescible solid wastes consisting of both combustible and non-combustible wastes.

SLEEPING AREA. A bedroom or room intended for sleeping or a combination of bedrooms or rooms intended for sleeping within a dwelling unit which are located on the same floor and are not separated by another habitable room, such as a living room, dining room, or kitchen, but excluding bathroom, hallway or closet.

STRUCTURE: Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a fence or freestanding wall. A sign, billboard, or other advertising medium, detached or projecting, shall be construed to be a structure.

SUBSTANDARD: All structures, which do not conform to the minimum standards, established by this Chapter or any other ordinances.

TWO-FAMILY DWELLING: A structure containing two (2) dwelling units.

VENTILATION: The process of supplying and removing air by natural or mechanical means to or from any space. Ventilation by power-driven devices shall be deemed mechanical ventilation.

Ventilation by opening to outer air through windows, skylights, doors, louvers or stacks without wind-driven devices shall be deemed natural ventilation.

VISITOR: One who occupies a dwelling as a visitor, guest, or caller.

YARD: An open space, at grade, on the same lot as a building or structure, located between the main building and the adjoining lot line and/or street line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure.

APPLICABILITY OF PROVISIONS

Every building or its premises used, in whole or in part, as a dwelling or as an accessory structure thereof shall conform to the requirements of this Chapter

MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNITS

The International Property Maintenance Code, 2009 Edition, which was amended and adopted by the City of Berkeley on March 15, 2010 by Ordinance No. 3890 as the Property Maintenance Code of the City of Berkeley, is hereby adopted as so amended as the Property Maintenance Code of the City of Berkeley as if it were fully set out herein. Such document ordinance are on file with the City Clerk, and will be referred to as needed to housing compliance.

It shall be unlawful for any person to occupy, as owner-occupant, or to let or hold out to another for occupancy any dwelling unit for the purpose of living, sleeping, cooking or eating which is not safe, clean and fit for human occupancy and which does not comply with the particular requirements of the following:

1. *Foundation, exterior walls and roof.* The foundation, exterior walls, and roof shall be watertight and protected against rodents and shall be kept in sound condition and repair. The foundation elements shall adequately support the building at all points. Every exterior wall shall be maintained in a sound condition of repair and shall be free of any other condition, which admits rain or dampness to the interior portions of the building. All exterior surface material must be treated, painted in a workmanlike manner, or otherwise maintained in a sound condition. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls. All cornices, rustications, quoins, moldings, belt courses, lintels, sills, oriel windows, pediments, gutters, and similar projections shall be kept in good repair and free from defects, which make them hazardous and dangerous.
2. *Floors, interior walls and ceilings.* Every floor, interior wall and ceiling wall shall be adequately protected against the passage and infestation of vermin and rodents and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotting floorboards. Every interior wall and ceiling shall be free of large cracks and holes and shall be free of loose plaster or other structural or surface materials. Every toilet room and bathroom floor surface shall be impervious to water and capable of being maintained easily in a clean and sanitary condition. Toxic paint and materials shall not be used where readily accessible to children.
3. *Windows, doors and hatchways.* Every window, exterior door and basement hatchways shall be substantially tight and shall be kept in sound condition and repair. Every window shall be fully supplied with windowpanes which are without cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame. Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware. Every exterior door, when closed, shall fit reasonably well within its frame.

4. *Exterior appurtenances.* Exterior appurtenances, including, but not limited to, screens, awnings, gutters, trellises, television antennas, storm windows and storm doors, shall be installed in a safe and secure manner and shall be maintained in sound condition.

5. *Stairways and porches.* Every stairway, inside or outside of the dwelling, and every porch shall be kept in safe condition and sound repair. Every flight of stairs and every porch floor shall be free of deterioration. Every stairwell and every flight of stairs which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet high, measured vertically from the nose of the tread to the top of the rail and every porch which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet above the floor of the porch. Every rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled more than one (1) inch out of its intended position or have pulled away from supporting or deteriorating supports. The treads and risers of every flight of stairs shall be uniform in width and height. Every stair tread shall be strong enough to bear a concentrated load of at least four hundred (400) pounds. Every porch shall have a sound floor. No porch shall have rotting, loose, or deteriorating supports.

6. *Basements and lower levels.* Every basement and lower level shall be maintained in a safe and sanitary condition. Water shall not be permitted to accumulate or stand on the floor. All sewer connections shall be properly trapped. All slab drains shall be covered with grating. Junk, rubbish and waste shall not be permitted to accumulate as to create fire hazard or to endanger health or safety.

7. *Facilities, equipment and chimneys.* Every supplied facility, fixture, system, piece of equipment or utility and every chimney and chimney flue shall be maintained in a safe, sound and sanitary working condition consistent with the requirements of this Chapter.

8. *Driveways.*

a. *Existing driveways.* Existing driveways shall be maintained in good repair and free of safety hazards, cracks, dips, swales, etc.

b. *New or improved driveways.* All new or improved driveways shall be concrete, and a permit is required.

b.1. Asphalt driveways shall be milled, overlaid with new asphalt topping, and sealed, and in accordance with zoning code.

c. At the time of sale or transfer of ownership of residential property, the new occupiers, prior to obtaining an occupancy permit, shall be required to have existing driveways and parking areas on the premises paved with either asphalt, concrete, ornamental paving stones or full brick on compacted stone according to manufacture specifications. On all existing paved areas, repairs to pavement also must be completed prior to a new occupancy permit being issued.

At such time that there is a change of occupancy within any rental property (residential or multi-family zoned), the owner of the property shall be required to have all driveways and parking areas paved with either asphalt, concrete, ornamental paving stones or full brick on compacted stone according to manufacture specifications. On all the existing paved areas, repairs to pavement **must also** be completed prior to a new occupancy permit being issued.

9. *Yards.* All areas which are not covered by lawn or vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang or screen a public thoroughfare shall be properly trimmed to avoid obstruction

of the view and movements of vehicles and pedestrians. Hazardous dead trees and shrubs shall be promptly remove

9a. The allowing or maintaining, on any lot or parcel of ground, of the growth of weeds to a height of nine (9) inches in any residentially zoned district of the City, or to a height of one (1) foot in any other zoning district of the City. These limits shall also apply to the growth of weeds upon improved streets or upon the right-of-way adjoining such premises or upon any adjoining sidewalks. The word "*weeds*" as used herein shall include all rank vegetable growth which exhales unpleasant and noxious odors, and also high and rank vegetable growth that may conceal filthy deposits or rodents, or which constitutes a general nuisance.

10. *Infestation.* Each dwelling and all exterior appurtenances on the premises shall be adequately protected against insects, rats, mice, termites and other vermin infestation. Building defects which permit the entrance of insects, rats, mice, termites and other vermin shall be corrected by the owner. Tenants shall be responsible for the elimination of rodents and vermin from that part of the premises under their exclusive control, except when more than one (1) unit is infested at the same time and in this instance, the owner shall be responsible for elimination of the infestation.

11. *Tree topping.* No person shall top any street tree, park tree or other tree on public property. "*Topping*" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Subsection at the determination of the Building Commissioner

12. *Dead or diseased tree removal on private property.* The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City. The Building Commissioner or designee will notify, in writing, the owner and/or occupier of such property in which the trees are located. Removal shall be done by said owner and/or occupier at his/her own expense within thirty (30) days after the date of notice. In the event of failure of the owner and/or occupier to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner and/or occupier through ordinance violation and/or as a special tax lien. Or file a summons for the owner of the property to appear in Municipal Court.

13. *Facilities, Equipment and Chimneys.* Every supplied facility, fixture, system, piece of equipment or utility and every chimney and chimney flue shall be maintained in a safe, sound and sanitary working condition consistent with the requirements of the City Code. Including have a fitted rain cap.

14. *Abandonment of Refrigerators, Etc.* No refrigerator may be discarded, abandoned or stored in a place accessible to children without first removing any locking devices or the hinges of the doors. Abandonment of any appliance or other refuse on public or private property not belonging to the owner of the refuse or in any place generally visible to the public or in violation of any State, County or local sanitation laws is prohibited.

RESPONSIBILITIES OF OCCUPANTS OF DWELLING UNITS

Occupants of dwelling units and, apartments units shall be responsible for compliance with this Chapter in regard to the following:

1. Limiting occupancy of that part of the premises which he/she occupies or controls to the maximum permitted by this Chapter.
2. Maintenance of that part of the premises which he/she occupies or controls in a clean, sanitary and safe condition.
3. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which he/she occupies or controls in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
4. Keeping exits from his/her dwelling unit, clear and unencumbered.
5. No outside storage of personal items, vehicle parts, excessive toys, lawn equipment, trash or debris.
6. Disposal of garbage and refuse into provided facilities in a clean and sanitary manner in accordance with the provisions of this Code and other City ordinances.
7. Extermination of insects, rodents or other pests within his/her dwelling unit, studio unit or rooming unit.
8. Maintaining of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation, refuse and rubbish insofar as such occupant occupies or controls such yards, lawns and courts or any parts thereof.
9. The installation and removal of required screens.
10. Keeping his/her domestic animals and pets in an appropriate manner and under control. A Berkeley Pet tag is required for all domestic pets.
11. Elimination of all prohibited uses as set forth in this Chapter for that part of the premises which he/she occupies or controls or to which he/she has accessibility.

RESPONSIBILITY OF OWNER OF PREMISES

A. Owners of premises shall be responsible for compliance with the provisions of this Chapter and shall remain responsible therefore regardless of the fact that this Chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

B. Owners and operators of multiple dwellings shall be responsible for proper installation, maintenance, condition and operation of service facilities and for furnishing adequate heat and hot water supply where they had contracted to do so.

C. Whenever any person shall be in actual possession of or have charge, care or control of any property within the City as executor, administrator, trustee, guardian, operator or agent, such person shall be deemed and taken to be the owner of such property within the true intent and meaning of this Chapter and shall be bound to comply with the provisions thereof to the same extent as the record owner; and notice to any such person or any order or decision of the Enforcement Official shall be deemed and taken to be a good and sufficient notice as if such person were actually the record owner of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one (1) or more violations of the Chapter, such occupant shall be deemed and taken to be an owner within the true intent and meaning of this Chapter.

SPACE REQUIREMENTS AT CHANGE OF OCCUPANCY

A. *Minimum Space Requirements.* Every dwelling unit shall contain a minimum gross floor area of not less than two hundred fifty (250) square feet for the first (1st) two (2) occupants and one hundred (100) square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

B. *Sleeping Rooms.* In every dwelling unit, every bedroom occupied by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every bedroom occupied by more than one (1) occupant shall contain at least seventy (70) additional square feet of floor area for each occupant thereof. In addition, no sleeping room may have a door that leads through the exterior of the building unless there are two (2) other doors from the same dwelling unit that lead to the outside that do not go through a sleeping room. Neither of these two (2) other doors can be a basement door. Further, any room to be used as a sleeping room must open on to a common hallway or area and may not be used as a sleeping room if the only access to it is through another room.

C. *Common Living Areas.* In addition to the space requirements for sleeping rooms in Subsection (B) herein, each dwelling unit in the City shall have at least two hundred fifty (250) square feet of common living area, not sleeping area.

D. *Ceiling Height.* Habitable rooms shall have a clear ceiling height over the minimum area required of at least seven (7) feet. Attics or top half stories calculated as habitable rooms shall have a clear ceiling height of at least seven (7) feet over at least one-third (1/3) of the floor area. Only those portions of the floor area of such rooms having a clear ceiling height of **six (6)** feet or more may be included.

E. *Basement Rooms.* Lower level rooms that do not comply with this Chapter shall not be considered in computing the minimum habitable floor area required.

F. *Prohibited uses.* It shall be prohibited to use for sleeping purposes any non-habitable space or room or public space or to use as a bedroom any room which must be passed through to gain access to any other habitable or frequently used portion of the dwelling.

LOWER LEVEL BASEMENT ROOMS

It shall be unlawful for any person to use or permit any room in any lower level or basement to be used to satisfy the habitable room requirement of this Chapter unless such room meets all the applicable requirements of this Chapter, particularly with regard to ceiling height, ventilation and window area, same level egress and meets the following additional requirements:

1. The lowest point of the ceiling shall be at least thirty-six (36) inches above the surface of the ground immediately adjoining the room.

2. The required minimum window area is entirely above ground level and have a clear opening. It must have a minimum *net clear opening* of 5.7 sq. ft. Net clear opening refers to the actual free and clear space that exists when the window is open. It is not the rough opening size or the glass panel size or any other size, but *the actual opening a person can crawl through*. Code officials want the opening large enough so firefighters can comfortably crawl through the window in full protective gear with an air tank on their back. Ground-floor windows only need a net clear opening of 5 sq. ft.; they can be smaller because a rescue ladder doesn't take up part of the opening. The opening height must be at least 24 in., and the opening width must be at least 20 in. The bottom of the clear opening must be within 44 in. of the floor. The window or other opening must be operational from the inside without keys or tools. Bars, grilles and grates over windows must be operational without tools or keys and still allow the minimum clear opening. Note that a window opening that's the bare minimum of 24 in. high and 20 in. wide does not meet egress requirements, since its net clear opening is only 3.33 sq. ft. A window has to be taller and/or wider than these minimums to meet the 5.7-sq.-ft.-opening requirement.

3. No floor area three (3) feet below grade shall be used in determining habitable living space.

4. Two (2) means of exit are provided, at least one (1) of which leads directly to the outside of the building at ground level, and without the use of interior or exterior steps.

5. The floors and walls shall be constructed in a manner to prevent the entry of moisture and insulated to prevent the condensation of moisture within the room.

ILLUMINATION

A. *Public Hallways*. All corridors, passageways and stairways shall be provided with electrical fixtures so that they can be adequately lighted at night. A minimum of five (5) foot-candles of daylight or artificial illumination shall be required at all times in all public hallways.

B. Residential structures - shall be provided with electrical fixtures so that they can be adequately lighted in basement stairwell, stairs leading to 2nd story or above. A minimum of five (5) foot-candles of daylight or artificial illumination shall be required at all times.

C. *Natural Lighting*. All habitable rooms, except as otherwise provided in this Chapter, shall be provided with a means of transmitting natural light from outside complying with the following requirements:

1. *Window area*. Every habitable room shall have at least one (1) window or skylight of approved size facing directly to the outdoors, except in kitchens where artificial light may be provided in accordance with the provisions of the adopted Building Code.

2. *Windows leading to porches*. Whenever the natural light area opening from a habitable room is to an enclosed porch, such area shall not be counted as a required light area unless the enclosed porch has a natural light area of at least thirty percent (30%) of the floor area of the room in question.

SMOKE DETECTORS - REQUIRED

Definitions. The following definitions shall apply to this Section:

SLEEPING AREA. A bedroom or room intended for sleeping or a combination of bedrooms or rooms intended for sleeping within a dwelling unit which are located on the same floor and are not separated by another habitable room, such as a living room, dining room, or kitchen, but excluding bathroom, hallway or closet. A dwelling unit may have more than one (1) sleeping area.

SMOKE DETECTOR. A device which detects visible or invisible particles of combustion and shall be either the ionization chamber or the photoelectric type.

B. Smoke Detectors.

1. The owner of each dwelling unit which is constructed, changes ownership, changes tenants, or is rehabilitated shall install smoke detectors prior to the occupancy or change in occupancy of said dwelling unit. If smoke detectors already exist in said dwelling units, the smoke detectors must comply with the provisions of this Section.

2. The owner, upon the occurrence of any of the events set forth in Subsection (B)(1) of this Section, shall install at least one (1) smoke detector to protect each sleeping area. In an efficiency apartment dwelling, the owner shall install the smoke detector in the room used for sleeping. In a multiple-family dwelling, the owner shall install at least one (1) smoke detector in each individual apartment or unit. In all other dwellings, the owner shall install the smoke detectors outside the sleeping areas and on the ceilings in the immediate vicinity of the sleeping area. An owner subject to this Section shall install each smoke detector on the ceiling at a minimum of four (4) inches from the side wall to the near edge of the detector and within fifteen (15) feet of all rooms used for sleeping purposes. A smoke detector shall be installed on every floor level, including the basement. Therefore, a two-story residence with a basement shall have a minimum of three (3) smoke detectors. The smoke detector in the basement shall be as close as possible to the stairwell. If a dwelling undergoes alterations, repairs or additions which require a permit, or if one (1) or more sleeping rooms are added or created in an existing dwelling, the entire dwelling or building shall be provided with smoke detectors as required for a new dwelling under this Section. Where more than one (1) sleeping area is located on a floor level, the smoke detector for each sleeping area shall be installed pursuant to this paragraph. For good cause shown, the Building Commissioner has the authority to modify the location requirements of this Section. In dwellings where location of smoke detectors cannot be readily determined, the Fire Marshall should be contacted for assistance in placement of detectors.

3. The owner shall install a smoke detector which is capable of sensing visible and invisible particles of combustion and emitting an audible signal and may be wired directly to the building power supply or may be powered by self-monitored battery. The smoke detector shall comply with all specifications of the Underwriters Laboratories, Inc. Standard UL217 (standard for safety single and multiple station smoke detectors) 2nd Edition October 4, 1978, as revised May 19, 1983, or any recognized standard testing laboratory that certified the detector meets the requirement of National Fire Protection Association (NFPA) standards 72E and 74. Smoke detectors shall bear the label of a nationally recognized standards testing laboratory that indicates that the smoke detectors

have been tested and listed under the requirement of UL217 2nd Edition or NFPA 72E and 74.

4. It shall be the responsibility of the owner to supply and install all required detectors. The owner shall be responsible for testing and maintaining detectors in common stairwells. It shall be the responsibility of the occupant to provide and maintain batteries for each detector, to test and maintain detectors within dwelling units, and to notify the owner or authorized agent in writing of any deficiencies. The owner shall be responsible for providing each occupant with written information regarding detector testing and maintenance.

5. It shall be unlawful for any person to remove batteries or in any way make smoke detectors inoperable.

CARBON MONOXIDE DETECTORS - REQUIRED

(1) "Fossil fuel" shall include coal, natural gas, kerosene, oil, propane and wood.

(2) "Rehabbed" shall mean any repair or reconstruction of the interior of the building or structure which requires a permit under the applicable building code.

Required--Single-family residential buildings.

The owner of every new building or structure within the City of Berkeley which is intended to be occupied for residential purposes by a single family and every single family residential building or structure which is rehabbed after the effective date of the ordinance codified in this chapter, and which is heated by a fossil fuel powered heating unit which is fully contained within the interior of the building or structure, shall install not less than one (1) approved carbon monoxide detector outside the area of sleeping rooms and additional units as required by the Fire Marshal.

Required--Multiple-family residential buildings.

The owner of every new building or structure within the City of Berkeley which is intended to be occupied for residential purposes by more than one family and every multiple-family residential building or structure which is rehabbed after the effective date of the ordinance codified in this chapter, and which is heated by a fossil fuel powered heating unit which is fully contained within the interior of the building or structure, shall install not less than one (1) approved carbon monoxide detector in each unit of said building or structure.

Compliance--Rules and regulations.

A carbon monoxide detector is deemed approved for purposes of this ordinance if it complies with all applicable state and federal regulations, and bears the label of a nationally recognized standard testing laboratory, and meets the revised standard of at least UL 2034 dated October 1, 1995 and subsequent revision or its equivalent. The Building Commissioner and Fire Marshal shall issue rules and regulations, not inconsistent with the provisions of this chapter, for the implementation and administration of the provisions of this chapter relating to carbon monoxide detectors.

Unlawful to make detector inoperable.

It shall be unlawful for any person to, in any way to make inoperable a carbon monoxide detector required under this chapter, except that this provision shall not apply to any building owner, manager, and/or agent of said building owner or manager in the normal procedure of maintenance including replacement of batteries.

Maintenance.

The owner of a building or structure which is subject to the provisions of this ordinance, shall supply, install, test, as per the manufacturer's specifications, and maintain required carbon monoxide detectors. The owner shall also supply all necessary equipment required for the operation of said detectors.

POSTING OF STREET ADDRESSES

A. Posting of Street Address. The owners, tenants or occupants of all residences and buildings within the City shall conspicuously post their street addresses on said property so that said address can be seen from the street in front of said residence or buildings. Numbers shall be at least 4" in height.

B. Enforcement. The requirements of this Section shall be enforced by the Building Commissioner and the Fire Marshall

C. Compliance Period. Any person who violates the provisions of this Section shall be allowed a compliance period of fifteen (15) days to bring his/her residence or building into compliance before any fine may be imposed.

MECHANICAL

The International Mechanical Code, which was amended and adopted by the City of Berkeley on March 15, 2010 by Ordinance No. 3890 as the Mechanical Code of the City of Berkeley, is hereby adopted as so amended as the Mechanical Code of the City of Berkeley as if it were fully set out herein. Such document and ordinance are on file with the City Clerk.

PLUMBING

The International Plumbing Code, 2009 Edition, which was amended and adopted by the City of Berkeley on March 15, 2010 by Ordinance No. 3890 as the Plumbing Code of the City of Berkeley, is hereby adopted as so amended as the Plumbing Code of the City of Berkeley as if it were fully set out herein. Such document and ordinance are on file with the City Clerk.

WATER HEATING FACILITIES

A. Every dwelling unit shall have supplied water heating facilities which are properly installed including appropriate safety devices (such as combination pressure/temperature relief valve and energy cutoff devices) that are maintained in a safe and good working condition, capable of heating water to a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty degrees Fahrenheit (120-F) unless an automatic dishwasher is in use in which case the minimum shall be one hundred forty degrees Fahrenheit (140-F). A disconnect coupling shall be installed on all gas type water heaters with a shutoff valve installed in the line prior to the disconnect and within easy sight of the water heater.

B. Water Supply and Sinks.

1. Each dwelling shall be provided with a potable water supply servicing all required plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily and without undue noise under normal conditions and without any leaks or other signs of disrepair.

2. There shall be at least one (1) kitchen sink installed and maintained in good, clean operation in every dwelling unit and studio unit.

3. Every kitchen sink, lavatory, bathtub or shower required by this Chapter or other law or ordinance shall be supplied with both hot and cold water properly connected to a supply of potable water.

TOILET ROOMS AND BATHROOMS

A. Number and Location. In one-family dwellings, there shall be at least one (1) bathroom located within the dwelling. In two (2) or more family dwellings, each dwelling unit shall have at least one (1) bathroom located within each unit. For studio units, there shall be at least one (1) bathroom within each unit. For all dwelling units, there shall be at least one (1) bathroom for each five (5) persons or a bathroom and a toilet room for seven (7) persons. Two (2) bathrooms will serve up to nine (9) persons.

Minimum Housing Standards

B. Arrangements. One (1) bathroom in all dwelling units shall be accessible from any sleeping room without passing through any other sleeping room. Toilet rooms and bathrooms within dwelling units and those in public spaces available for the use of dwelling units shall have provisions made for privacy.

C. Floors. Shower stalls shall be provided with waterproof floors and with a wall wainscot made of at least a water-resistant material and extending to a minimum height of five (5) feet six (6) inches above the floor level. The floors of toilet rooms and bathrooms in private dwellings shall be covered, at a minimum, with a moisture-resistant material. The floors of toilet rooms and bathrooms in multiple dwellings and in non-residence buildings shall be waterproof, such waterproofing shall extend six (6) inches or more on the walls above the floors, except at doors. Floors shall be kept in a dry, clean and sanitary condition by the occupant.

D. Employee Facilities. Where there are five (5) or more employees in a multiple dwelling, separate toilet room facilities shall be provided for them and for each sex. Such facilities shall be readily accessible to the employees and shall not open directly into any public kitchen or other public space used for the cooking or preparation of food.

E. Light and Ventilation. Every toilet room and every bathroom in a building shall be provided with adequate light and ventilation, either natural or artificial, in accordance with the requirements of this

VENTILATION REQUIREMENTS

A. Generally. Every habitable room shall have natural ventilation or a mechanical ventilation system adequate for the purpose for which the room is used.

B. Toilet Rooms, Bathrooms and Kitchens. Every toilet room, bathroom and kitchen shall have adequate ventilation which may be either an openable window with an operable area of five percent (5%) of the floor area, mechanical ventilation, or a gravity vent flue constructed with incombustible material leading to the roof of the building, or a combination of any of these. The gravity vent shall be computed at an aggregate clear area of not less than five percent (5%) of the floor area of the room with a minimum area of at least one hundred twenty (120) square inches.

Gravity vents shall be provided with a weather cap, directional vane or rotary type ventilation on the roof.

C. Adequacy. A ventilating system maintained in a safe and good working condition which provides a complete change of air for the bathroom or water closet compartment every fifteen (15) minutes shall meet the requirements of this Section.

Installation and Maintenance.

All plumbing fixtures, water supply lines, sewer lines and waste disposal systems and their appurtenances shall be properly installed in accordance with the requirements of the Plumbing Code of St. Louis County and the City. They shall be maintained in a safe, sanitary and operating condition free from defects, leaks and obstructions.

B. Responsibility of Occupants and Owner of Premises. Every occupant of premises shall be responsible for the exercise of proper care and cleanliness in the use and operation of all plumbing fixtures, sanitary facilities, appliances and equipment therein. This liability on the part of the occupant shall not relieve the owner of the responsibility of remedying any defect, nor of any other liability imposed upon the owner by law, but it shall subject the occupant to the penalties of this Chapter upon proof of any willful or malicious act he/she has performed.

ELECTRICAL SERVICE

The National Electrical Code, 2008 Edition, which was amended and adopted by the City of Berkeley on March 15, 2010 by Ordinance No. 3891 as the Electrical Code of the City of Berkeley, is hereby adopted as so amended as the Mechanical Code of the City of Berkeley as if it were fully set out herein. Such document ordinance are on file with the City Clerk.

It shall be unlawful to occupy or permit another to occupy any dwelling unit for the purpose of living therein which is not adequately and safely provided with an electrical system in compliance with the requirements of this Section.

1. *Minimum requirements.* The following shall be considered as absolute minimum requirements: In dwelling units where the electrical service is less than one hundred (100) amperes, the service shall be replaced by a minimum size service of one hundred (100) amperes.
2. *Federal Pacific Panel – Prohibited.* Homes built between 1950 and 1990 and is equipped with a Federal Pacific Electric (FPE) circuit breaker panel with Stab-Lok circuit breakers, run a significant risk of breaker malfunction and fire.
3. *Deficiencies.* Wherever it is found, in the judgment of the enforcement official, the electrical system in the building constitutes a hazard to the occupants or the building by reason of inadequate service, improper fusing, improper or inadequate grounding of the system, insufficient outlets, improper wiring or installation, deterioration or damage or for similar reasons, the defects shall be corrected to eliminate the hazard. The enforcement official shall base his/her findings of hazard on accepted engineering practice standards and this City Code.
4. *Number of electrical outlets.*
 - a. Every habitable room shall contain not less than two (2) separate and remote wall or approved floor convenience outlets.

- b. Every kitchen shall be provided with at least three (3) separate and remote wall-type electrical convenience outlets. Any outlet within six (6) feet of a sink has to be a GFCI (ground fault circuit interceptor).
 - c. Every bathroom shall be provided with at least one (1) convenience outlet. Any outlet within six (6) feet of any water receptacle has to be a GFCI (ground fault circuit interceptor).
 - d. *Laundry area.* Every laundry area shall contain at least one (1) grounded-type convenience outlet of twenty (20) ampere rating. Any outlet within six (6) feet of any water receptacle has to be a GFCI (ground fault circuit interceptor).
 - e. *Non-habitable space.* Every bathroom, laundry room, furnace room and hallway shall contain not less than one (1) ceiling or wall lighting fixture.
 - f. *Good working order.* Every outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner.
5. *Hazards defined.* In addition to the hazards established by the enforcement official, the following installations are prohibited and their presence shall be deemed a hazard:
- a. Flush or semi-flush mounted floor convenience outlets unless provided with an approved waterproof cover.
 - b. Extension cords for other than short-term, temporary use.
 - c. Conductor supported pendant switches or conductor supported light fixtures unless bearing the Underwriters' Laboratory approval.
 - d. Loose or hanging wires.
 - e. Frayed or bare wires.
 - f. Inadequately grounded-type convenience outlets

WATER FACILITIES

No person shall occupy, as owner-occupant, or let to another for occupancy any dwelling or dwelling unit which does not comply with the following requirements regarding water facilities:

1. *Bathrooms.* Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet, lavatory basin and bathtub or shower, all of which are in good working condition and are properly connected to hot and cold water lines and to an approved water and sewer system.
2. *Kitchen sinks.* Every dwelling unit shall contain a kitchen sink apart from the lavatory basin required which is in good repair and in working condition, properly connected to hot and cold water lines and to an approved water and sewer system.
3. *Water heating facilities.* Every dwelling unit shall have supplied water heating facilities which are properly installed, including appropriate safety devices, such as pressure-relief valve, temperature-relief valve or energy cut-off devices that are maintained in safe and good working condition, capable of heating water to a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred forty degrees Fahrenheit (140°F).
4. *Plumbing fixtures.* Every dwelling unit and structure covered by this Chapter shall have water lines, laundry standpipes, plumbing fixtures, vents and drains which are properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the adopted Building and Plumbing Code of the City.

HEATING

- A. *General Requirements.* Every dwelling unit shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathroom and water closet compartments within its walls. Heating units not allowed in closet of sleeping areas.
- B. *Good Working Condition.* The owner shall see that the heating facilities shall be properly installed, safely maintained and in good working condition at all times.

VENTILATION REQUIREMENTS

- A. *General Requirements.* Every habitable room shall have natural ventilation or a mechanical ventilation system adequate for the purpose for which the room is used.
- B. *Toilet Rooms, Bathrooms and Kitchens.* Every toilet room, bathroom and kitchen shall have adequate ventilation which may be either an openable window with an openable area of five percent (5%) of the floor area, mechanical ventilation or a gravity vent flue constructed with incombustible material leading to the roof of the building or a combination of any of these. The gravity vent shall be computed at an aggregate clear area of not less than five percent (5%) of the floor area of the room with a minimum area of at least one hundred twenty (120) square inches. Gravity vents shall be provided with a weather cap, directional vane or rotary-type ventilation on the roof.
- C. *Adequacy.* A ventilating system maintained in a safe and good working condition which provides a complete change of air for the bathroom or water closet compartment every fifteen (15) minutes shall meet the requirements of this Section.

EGRESS

- A. *General Egress.* Every dwelling unit shall have a safe and unobstructed means of egress leading to safe and open space outside at the ground level. Passage through such exit shall not lead through any other dwelling unit.
- B. *Structures with Three or More Stories.* All habitable structures of three (3) or more stories with dwelling units occupying the third (3rd) or higher story shall be provided with two (2) separate, usable, unobstructed means of egress for each dwelling unit located above the second (2nd) story.
- C. *Easy Egress Mandatory.* Every door available as an exit shall be capable of being easily opened from the inside. Deadbolt locks are prohibited.

OCCUPANCY PERMIT REQUIRED

Real Property Owners Jointly and Severally Responsible for Obtaining Occupancy Permit.

All real property owners within the City of Berkeley shall be responsible jointly and severally with any tenant for obtaining an occupancy permit prior to entering upon or allowing a tenant to enter upon for the purpose of occupancy, any real property within the City.

- A. *Applicability.* This Section shall not apply to any occupancy in existence at the effective date hereof and until a change of occupancy occurs.
- B. *Scope.* Except as otherwise provided, it shall be unlawful for any person or family to occupy or for any owner or agent thereof to permit the occupation of any dwelling, dwelling unit or addition thereto or part thereof for any purpose until an occupancy permit has been issued by the enforcement official. The occupancy permit shall not be issued until all violations of this Chapter have been brought into compliance. The occupancy permit so issued shall state the occupancy complies with all of the provisions of this Chapter.

C. *Contents of Occupancy Permit.* The occupancy permit shall state the names, dates of birth, relationships and number of occupants of the dwelling unit. It shall be unlawful for any person to knowingly make any false statements in his/her application for an occupancy permit as to the names, dates of birth, relationships or number of occupants of the dwelling unit. No more than one (1) "family", as defined in this Chapter, shall occupy each dwelling unit. All persons who occupy the premises of a dwelling unit must be listed on the occupancy permit or be subject to the penalties provided in this Chapter. Occupancy is based on occupant load of the structure.

D. *Inspection Fees.*

1. *As established in this chapter, Appendix E*

2. *Payment of fees.* Inspection/re-inspection fees shall be paid to the City prior to any inspection or re-inspection by the Building Inspector of the City.

E. *Inspection Report.* The city's inspection report is valid for thirty (30) days after inspection compliance or it will be necessary to re-inspect the building at the above fees.

E. *Time for Issuance.* Once the building complies with the requirements of the Building Commissioner, the occupancy permit must be issued within thirty (30) days or it will be necessary to re-inspect the building at the established fees.

F. *Change of Occupancy.*

1. *Report required.* Every dwelling unit in which a change of occupancy is to occur must be reported by the owner, real estate broker and/or agent to the City so that the enforcement official may inspect the structure according to the provisions of this Chapter. Upon inspection, he/she shall determine the number of occupants which can be housed in the dwelling unit without creating a health or safety hazard. Failure to make such report shall constitute a violation of this Chapter and the person responsible for the failure shall be subject to the penalties hereof.

G. *Conditional Occupancy Permit.* A conditional occupancy permit may be issued by the enforcement official if, in his/her judgment, any deficiencies in structures covered by this Chapter would not seriously endanger the health or safety of the occupants or the community and, provided, that the occupant makes an affidavit stating that he/she will correct deficiencies within a specified time and thus bring the structure into compliance with the provisions of this Chapter. The occupant may then occupy the dwelling unit while repairs are being made. When the dwelling complies with all the provisions of this Chapter, an occupancy permit will be issued as provided above with the qualifications as set out in this section.

VALID IDENTIFICATION REQUIRED

Valid State issued Driver's license, Valid State Issue Id (not membership cards), Marriage Certificates, Valid Passports, green card, or visas; birth certificates, valid foreign identification will be accepted.

ENFORCEMENT OF PROVISIONS

A. *Enforcement Official.* It shall be the duty of and responsibility of the Building Commissioner to enforce the provisions of this Chapter. No order for correction of any violation under this Chapter shall be issued without the approval of the enforcement official.

B. *Inspections.*

1. The enforcement official is authorized and directed to make inspections to determine whether dwellings, dwelling units, rooming units, accessory structures and premises located within the City conform to the requirements of this Chapter. For the purpose of making such inspections, the enforcement official is authorized to enter, examine and survey at reasonable times all unoccupied dwellings, dwelling units, rooming units, accessory structures and premises. The owner or occupant of every

dwelling unit, rooming unit, accessory structure and its premises shall give the enforcement official access thereto at reasonable times for the purpose of such inspection, examination and survey.

2. If any owner, occupant or other person in charge of a structure subject to the provisions of this Chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this Chapter is sought, the enforcement official shall send the owner or occupant written notice of his/her right of entry. The notice shall set forth the day on which the entry will be sought and the name of the authorized representative. If the enforcement official is refused access to any said premises after written notice has been sent, the enforcement official may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.

3. Inspections shall be initiated under the following circumstances:

a. Application for any occupancy permit made by owner, real estate broker, agent or tenant must show proof of right to request occupancy permit. This can be done through deed, contract of purchase signed by owner, real estate agreement signed by owner, copy of rent receipt signed by owner or any other proof as required by the enforcement official.

b. When, on the basis of a signed complaint or his/her personal observation, the enforcement official reasonably suspects that a dwelling unit has code violations and as such constitutes a health and/or safety hazard.

c. Prior to any dwelling house, dwelling unit or commercial building being rented, sold or leased, it shall be required of the owner of the building to obtain a City inspection. It shall be the responsibility of the owner, agent of the owner and the real estate company to make the inspection certificate available to the purchaser prior to closing.

C. *Access by Owner or Operator.* Every occupant of a structure or premises shall give the owner or operator thereof or his/her agent or employee access to any part of such structure or its premises at reasonable times for the purpose of making such inspections, maintenance, repairs or alterations as are necessary to comply with the provisions of this Chapter.

NON-COMPLIANCE WITH CODE PROVISIONS

A. *Notice.*

1. *Contents.* Whenever the enforcement official finds evidence of a violation of any provision of this Chapter, he/she shall declare a public nuisance and give notice of same to the person responsible hereunder. Such notice shall:

- a. Be in writing;
 - b. Include a statement of each of the provisions of this Code being violated;
 - c. Include a statement of the corrective action required to cure such violation;
 - d. Specify the period of time within which such remedial action shall be taken, which time shall be a reasonable period of time under all the circumstances;
- and

2. *Notice served.* Notice of violation shall be served by delivering a copy to the owner or his/her agent or the occupant, as the case may require; provided, that such notice shall be deemed to be properly served if a copy thereof is delivered to the owner or his/her agent or the occupant personally or, if such person cannot be found, by sending a copy of the notice by registered or certified mail with return receipt requested to the person's last known address or, if same cannot be delivered, by posting a copy of such notice in a conspicuous place in or about the building affected by the notice. The notice

shall be deemed served on the date served or received or ten (10) days after posting as herein provided. If service cannot be had by any of these means, then service may be had by publications in a legal newspaper of general circulation within the City.

B. *Remedy Of Defects.* The owner of any building shall have ten (10) days from the issuance of the notice provided for in Subsection (A) of this Section in which to bring the condition into compliance except when emergency conditions shall require immediate action as provided in this Chapter; provided however, that the enforcement official may, at his/her discretion, extend the time for compliance with any such notice; provided further, that said extension is requested within the above stated ten (10) days, and no more than thirty (30) days.

C. *Re-inspection.* At the time when the defects have allegedly been brought into compliance, the enforcement official shall re-inspect the dwelling, dwelling unit, rooming unit, accessory structure and its premises. At this time, he/she shall make a complete inspection, taking particular notice that the violations previously noted have been brought into compliance and that no new violations have come into existence in the time which has elapsed since the first (1st) inspection.

D. *Vacant Structures.* The City shall be authorized to impose a semiannual registration fee of two hundred dollars (\$200.00) to be paid by the owner of any residential structure in the City which has been vacant for six (6) months or more and is in violation of the City's Housing Codes. Refer to adopted section:

<http://ecode360.com/28800868?highlight=structures.structure.vacant#28800868>

CONSTRUCTION PERMIT REQUIRED—ERECTION, RECONSTRUCTION OR ALTERATION OF ANY STRUCTURE

A. *Building Permit Required.* No structure shall be constructed, erected, reconstructed or altered in any way unless a construction permit has been issued by the Building Commissioner including, but not limited to, the following permits required: any new or existing building; building additions or alterations; room additions; plumbing, electrical or mechanical work, decks (above grade wood) or patio covers, including handicapped ramps; driveway, replacement or new driveway; driveway apron replacement or new driveway apron; adjoining sidewalk replacement or new adjoining sidewalk; walkway replacement or new walkway; porch or step construction or replacement; fence construction or replacement; tool shed/storage shelter construction or replacement (must be on concrete pads); carport construction or replacement; retaining wall construction; garage construction and swimming pool construction. Building Codes adopted in Section 500.010. <http://ecode360.com/28800307>

B. *Definition.* Whenever the term "structure" is used herein, it shall mean any building, outbuilding, garage, carport, fence, driveway, sidewalk, deck, porch, retaining wall or any part or portion thereof.

C. *Application for Permit.* Application for a construction permit shall be made pursuant to procedures set by the Building Commissioner and filed with the office of the City Clerk.

D. *Issuance of Permit.* The Building Commissioner shall issue the construction permit only upon a finding that the structure will conform to all applicable ordinances of the

City. If no violations are noted, the Building Commissioner shall issue a construction permit which shall be valid for one hundred eighty (180) days from the date of issue unless revoked by the Building Commissioner for further violations of City ordinance and shall be renewable once for no longer than one (1) additional one hundred eighty (180) day period for a fee outlined in Appendix E, fee schedule, **in Chapter 500 of the adopted code.**

E. Permit Fee. Each applicant for a construction permit shall be assessed a permit fee, the amount of which is to be determined by Appendix E, fee schedule.

F. Filing of Plans. All applications for building permits shall be accompanied by plans in triplicate (3-copies), drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the buildings and the lines within which the buildings or structure shall be erected or altered, the existing and intended use of each building or part of building, the number of families the building is designed to accommodate and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Section. One (1) copy of such plans shall be returned to the owner when such plans shall have been approved by the Building Commissioner.

G. All dimensions shown on those plans relating to the location and size of the lot to be built upon shall be based on an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

APPEALS

A. *Jurisdiction of the Board of Adjustment.* The Board of Adjustment shall have jurisdiction under this Section to hear and decide appeals where it is alleged by any aggrieved person that there is an error in any order, requirement, decision or determination made by the enforcement official or any other person charged with the enforcement of this Chapter.

B. *Appeal from Decision--Procedure for Filing.*

1. Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the City a notice of appeal, specifying the grounds therefor and by depositing with the City the sum established in Appendix E., fee schedule as a filing fee.

2. The enforcement official shall forthwith submit to the Board of Adjustment a copy of this notice of appeal together with all the papers constituting the record upon which the action appealed from is taken.

C. *Stay Of Proceedings Of Action Appealed From--Exception.* An appeal pursuant to this Section shall stay all proceedings in furtherance of the action appealed from unless the enforcement official shall certify to the Board of Adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.

D. *Information to Be Furnished To Board.* It shall be the duty of the Building Commissioner or designated enforcement official to furnish the Board of Adjustment, upon request, with copies of reports of any or all inspections made by such official in the matter on appeal and to furnish such other information as may be available and requested by the Appeal Board.

E. *Notice and Hearing.* The Board of Adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of such hearing shall be given to the appellant by being mailed, postpaid, to his/her permanent address at least ten (10) days prior to the date set for hearing or to his/her attorney of record.

F. *Action and Decision of Board.*

1. In exercising the powers enumerated in this Chapter, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made.

2. The action of the zoning Board of Adjustment shall not become effective until after the resolution of said Board of Adjustment setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions immediately following the Board's final decision shall be filed in the office of the City Clerk and shall be open to public inspection.

G. *Review of Decisions of Board.* Any appeal from the decision of the Board of Adjustment shall be made pursuant to the Administrative Procedures Act of the State and the review from the decision shall be had to the Circuit Court of the County on the record.

Section 3: Penalty. Any person violating any of the provisions of this Article or the Code adopted in this Article shall be deemed guilty of a misdemeanor where the court may impose fines or penalties.

Section 4: The Ordinance shall be in full force and effect on January 1, 2017.

FIRST READING: _____ 2016

SECOND READING: _____ 2016

THIRD READING AND PASSAGE: _____ 2016

APPROVED: _____
MAYOR

ATTEST: _____
DEANNA JONES, CITY CLERK