

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

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CHAPTER 1

PROPERTY MAINTENANCE CODE

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Neighborhood protection ordinance: title 20, chapter 6.

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13-101. Generally. (1) Title. These regulations shall be known as the Property Maintenance Code of the City of Bartlett, hereinafter referred to as "this code."

(2) Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

(3) Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

(4) Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code. (Ord. #64-1, July 1968, as amended by Ord. #03-10, Aug. 2003, and replaced by Ord. #07-01, Feb. 2007)

13-102. Applicability. (1) General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in § 13-101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

(2) Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

(3) Application of other codes. Repairs, additions or alterations to structure, or changes of occupancy, shall be done in accordance with the

procedures and provisions of the City of Bartlett's currently adopted building code, fuel gas code, mechanical code and National Electrical Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City of Bartlett Zoning Ordinances.

(4) Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

(5) Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

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

(7) Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in § 13-124 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

(8) Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-103. Department of property maintenance inspection.

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

(2) Appointment. The code official shall be appointed by the mayor and shall serve at his will and pleasure.

(3) Liability. The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

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

the department of property maintenance inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

(4) Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the code enforcement fee schedule. Copies of the fee schedule are available in the code enforcement office. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-104. Duties and powers of the code official. (1) General. The code official shall enforce the provisions of this code.

(2) Rule-making authority. The code official shall have authority as necessary in the interest of public health, safety and general welfare, to adopt procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

(3) Inspection. The code official or his designee shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the mayor.

(4) Right of entry. The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

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

(6) Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

(7) Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-105. Approval. (1) Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official

shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

(2) Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

(3) Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternate materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

(a) Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

(b) Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

(4) Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-106. Violations. (1) Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

(2) Notice of violation. The code official shall serve a notice of violation or order in accordance with § 13-107.

(3) Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with § 13-107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the

removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action or repairs taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

All repair costs are to include but not necessarily be limited to the following:

(a) Construction cost including removal and disposal, temporary repairs and barricading, materials and labor cost.

(b) Administrative cost of one hundred dollars (\$100.00) or fifteen percent (15%), whichever is greater.

If the property owner does not complete the necessary sidewalk repairs within sixty (60) days and the city undertakes the repairs, the property owner has the option of paying within thirty (30) days of completion of the repair work, wherein the administrative fee will be waived. If the property owner is unable to pay within the allotted thirty (30) days, he can pay via a 12-month payment plan set by the finance department.

(4) Tax lien. That the cost of any improvements required by the board of mayor and aldermen shall be assessed against the owner or owners of the abutting property and where such cost has not been paid within thirty (30) days of notice by registered mail, the public works department or the code enforcement department shall certify to the City of Bartlett Finance Department said assessment for filing against the taxes of the property.

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

(6) Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(7) Fines. Any person, firm or corporation violating any provision of this chapter shall be fined not less than five dollars (\$5.00) or more than fifty dollars (\$50.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-107. Notices and orders. (1) Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in subsections (1) and (3) to the person responsible for

the violation as specified in this code. Notices for condemnation procedures shall also comply with § 13-108(3).

(2) Form. Such notice prescribed in § 13-107(1) shall be in accordance with all of the following:

(a) Be in writing;

(b) Include a description of the real estate sufficient for identification;

(c) Include a statement of the violation or violations and why the notice is being issued;

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

(e) Inform the property owner of the right to appeal;

(f) Include a statement of the right to file a lien in accordance with § 13-106(3).

(3) Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

(a) Delivered personally;

(b) Sent by certified or first-class mail addressed to the last known address; or

(c) In addition to the foregoing, the notice of violation shall be posted on the property where the violation exists by taping or affixing on or near the front door of the dwelling, or, in the case of a vacant lot, by placing a sign containing the notice on the property.

(4) Penalties. Penalties for noncompliance with orders and notices shall be as set forth in § 13-106(5).

(5) Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner 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. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007, and amended by Ord. #17-02, March 2017)

13-108. Unsafe structures and equipment. (1) General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

(a) **Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) **Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(c) **Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(d) **Unlawful structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

(2) **Closing of vacant structures.** If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

(3) **Notice.** Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with § 13-107(3). If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in § 13-107(2).

(4) **Placarding.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word

"Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(a) Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

(5) Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner 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. (as added by Ord. #07-01, Feb. 2007)

13-109. Emergency measures. (1) Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(2) Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

(3) Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

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

(5) Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the City of Bartlett. The legal counsel of the city shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

(6) Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the code appeals board, be afforded a hearing as described in this code. (as added by Ord. #07-01, Feb. 2007)

13-110. Demolition. (1) General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two (2) years, to demolish and remove such structure.

(2) Notices and orders. All notices and orders shall comply with § 13-107.

(3) Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(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. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expenses and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state. (as added by Ord. #07-01, Feb. 2007)

13-111. Means of appeal. (1) Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the code appeals board, provided that a written application for appeal is filed within ten (10) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not

fully apply, or the requirements of this code are adequately satisfied by other means.

(2) Membership of board. The code appeals board shall consist of a minimum of three (3) members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the mayor, and shall serve staggered and overlapping terms.

(a) Chairman. The board shall annually select one of its members to serve as chairman.

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

(c) Secretary. The mayor shall designate a qualified staff member to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the code department.

(d) Compensation of members. Members shall serve without compensation.

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

(4) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the board membership.

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

(5) Postponed hearing. When a quorum is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(6) Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of those present.

(a) Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

(b) Administration. The code official shall take immediate action in accordance with the decision of the board.

(7) Stays of enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the code appeals board. (as added by Ord. #07-01, Feb. 2007, and amended by Ord. #17-01, March 2017)

13-112. Definitions. (1) Scope. Unless otherwise expressly stated, the following terms shall, for the purpose of this code, have the meanings shown in this chapter.

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

(3) Terms defined in other codes. Where terms are not defined in this code and are defined in the building code, fire prevention code, Bartlett Zoning Ordinance, plumbing code, mechanical code or the electrical code as adopted by the City of Bartlett, such terms shall have the meanings ascribed to them as stated in those codes.

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

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

(6) Definitions. (a) "Approved." Approved by the code official.

(b) "Basement." That portion of a building which is partly or completely below grade.

(c) "Bathroom." A room containing plumbing fixtures including a bathtub or shower.

(d) "Bedroom." Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

(e) "Blighted areas." Areas (including slum areas) with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use, or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

(f) "Code official." The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

(g) "Condemn." To adjudge unfit for occupancy.

(h) "Dilapidation." Extreme deterioration and decay due to lack of repairs to and care of the area.

(i) "Dwelling unit." A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

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

(k) "Exterior property." The open space on the premises and on adjoining property under the control of owners or operators of such premises.

(l) "Extermination." The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

(m) "Garbage." The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(n) "Guard." A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

(o) "Habitable space." Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

(p) "Housekeeping unit." A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

(q) "Imminent danger." A condition which could cause serious or life-threatening injury or death at any time.

(r) "Infestation." The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

(s) "Inoperable motor vehicle." A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

(t) "Labeled." Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

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

(v) "Occupancy." The purpose for which a building or portion thereof is utilized or occupied.

(w) "Occupant." Any individual living or sleeping in a building, or having possession of a space within a building.

(x) "Openable area." That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

(y) "Operator." Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

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

(aa) "Person." An individual, corporation, partnership or any other group acting as a unit.

(bb) "Premises." A lot, plot or parcel of land, easement or public way, including any structures thereon.

(cc) "Public way." Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

(dd) "Rooming house." A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

(ee) "Rooming unit." Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

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

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

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

(ii) "Structure." That which is built or constructed or a portion thereof.

(jj) "Tenant." A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(kk) "Toilet room." A room containing a water closet or urinal but not a bathtub or shower.

(ll) "Urban." Relating to a city; but in a more general sense it signifies relating to houses.

(mm) "Ventilation." The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

(nn) "Workmanlike." Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

(oo) "Yard." An open space on the same lot with a structure. (as added by Ord. #07-01, Feb. 2007)

13-113. Exterior property areas. (1) General. (a) Scope. The provisions of this section shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

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

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

(d) Applicable to all buildings and premises. Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the

effective date of this code. This code shall also apply to mobile home parks.

(2) Exterior property areas. (a) Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(b) Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: Approved retention areas and reservoirs.

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

(i) Duty of property owners. It shall be the duty of the property owners of all property within the City of Bartlett to keep the sidewalks abutting their property in good repair. The Code Enforcement Department of the City of Bartlett, when it determines, that a portion or all of a sidewalk or driveway apron or inlet, is in need of repair as authorized by the board of mayor and aldermen, may on its own motion, order the same to be done.

(ii) Notice to repair. That the order of the Board of Mayor and Aldermen of the City of Bartlett by resolution duly adopted, direct the Building Official of the City of Bartlett or his delegates to serve notice in writing upon the owner, or owners, of the property abutting the improvement to make such repairs as requested within ninety (90) days from the date of notification, such repair to conform to all standards currently adopted and enforced through the subdivision regulations of the City of Bartlett and the building codes and other related technical codes.

(iii) Failure to comply. The Building Official of the City of Bartlett shall report to the department of public works any owner or owners of property abutting the deteriorated sidewalks and/or drive aprons that have failed or who have refused or neglected to comply with the notice pertaining to their sidewalks and/or driveway aprons, and the department of public works shall thereupon, request the repair to be done either by its crews or by contract.

(iv) Right of appeal. The board of mayor and aldermen shall appoint a committee to hear and determine protest, appeals or hardship cases. The code appeals board shall have the power to waive administrative costs in the event a hardship is proven by the property owner.

(v) Transfer of property. The code enforcement department shall provide to the finance department a record of

damaged sidewalks and inlets as they are inspected. Such notice shall be filed on the tax records for the property and will provide a notification of such to all parties requesting tax data during the sale or transfer of the property.

(vi) Handicap ramps. When a sidewalk section must be replaced that is in the location where a handicap ramp is required, the City of Bartlett shall replace the sidewalk section at the time the city installs the handicap ramp. Said replacement and installation will be at the city's cost.

(d) Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of nine (9) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with § 13-106(3) and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon.

(i) Landscaping. Premises with landscaping and lawns, trees and shrubs shall be kept trimmed and maintained so as not to imperil public health or safety or cause damage to any structure or premises or utility services.

(e) Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

(f) Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(g) Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(h) Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, unless parked within the confines of an enclosed structure. Painting of

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

(i) **Defacement of property.** No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

(j) **Storage of commercial and industrial material.** There shall not be stored or used at a location equipment and materials relating to commercial or industrial use unless permitted under the zoning ordinance for the premises. (as added by Ord. #07-01, Feb. 2007)

13-114. Swimming pools, spas and hot tubs. (1) **Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

(2) **Enclosures.** Private swimming pools, hot tubs and spas, containing water more than twenty-four (24) inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least forty-eight (48) inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than fifty-four (54) inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six (6) inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section. (as added by Ord. #07-01, Feb. 2007)

13-115. Exterior structure. (1) **General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(2) **Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.

Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building

envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(3) Premises identification. Building shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

(4) Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

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

(6) Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

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

(8) Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

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

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

(11) Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the

elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

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

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

(a) Glazing. All glazing materials shall be maintained free from cracks and holes.

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

(14) Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with § 13-123(2)(c).

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

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

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

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

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

(c) Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry. (as added by Ord. #07-01, Feb. 2007)

13-116. Interior structure. (1) General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two (2) or more dwelling units or two (2) or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

(2) Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

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

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

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

(6) Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware. (as added by Ord. #07-01, Feb. 2007)

13-117. Handrails and guardrails. (1) General. Every exterior and interior flight of stairs having more than four (4) risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than thirty (30) inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than thirty (30) inches (762 mm) high or more than forty-two (42) inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than thirty (30) inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. Exception: Guards shall not be required where exempted by the adopted building code. (as added by Ord. #07-01, Feb. 2007)

13-118. Rubbish and garbage. (1) Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

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

(a) Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

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

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

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

(b) Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. (as added by Ord. #07-01, Feb. 2007)

13-119. Extermination. (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.

(2) Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(3) Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

(4) Multiple occupancy. The owner of a structure containing two (2) or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

(a) Maintenance service. In every building containing three (3) or more dwelling units or rooming units, or combination thereof, the owner shall provide or designate a maintenance service or maintenance person who shall at all times maintain the premises in compliance with this code and keep the premises free from filthy garbage, refuse and

rubbish. The owner shall provide each tenant with the name and telephone number of the maintenance service or maintenance person. The owner shall also provide the name and telephone of an alternate service or person to be available when the service or maintenance person cannot be reached. The owner shall also furnish such names and telephone numbers, including the alternates to the code enforcement department of the city. Additionally, the owner or operator shall register the name, address and telephone number of said owner or operator with the public officer.

(5) Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination. (as added by Ord. #07-01, Feb. 2007)

13-120. Light, ventilation and occupancy limitations. (1) General.

(a) Scope. The provisions of this section shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

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

(c) Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the city's currently adopted building code shall be permitted.

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

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

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

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

(3) Ventilation. (a) Habitable spaces. Every habitable space shall have at least one (1) openable window. The total openable area of the window in every room shall be equal to at least forty-five percent (45%) of the minimum glazed area required in § 13-120(2)(a).

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

(b) Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by this subsection, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

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

(i) Where specifically approved in writing by the code official;

(ii) Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

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

(e) Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

(4) Occupancy limitations. (a) Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

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

(c) Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than seven (7) feet (2134 mm).

Exceptions. (i) In one- and two-family dwellings, beams or girders spaced not less than four (4) feet (1219 mm) on center and projecting not more than six (6) inches (152 mm) below the required ceiling height.

(ii) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than six (6) feet eight (8) inches (2033 mm) with not less than six (6) feet four (4) inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

(iii) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven (7) feet (2134 mm) over not less than one-third (1/3) of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five (5) feet (1524 mm) or more shall be included.

(d) Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of subsections (i) through (v) below:

(i) Room area. Every living room shall contain at least one hundred twenty (120) square feet (11.2m²) and every bedroom shall contain at least seventy (70) square feet (6.5 m²).

(ii) Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. Exception: Units that contain fewer than two (2) bedrooms.

(iii) Water closet accessibility. Every bedroom shall have access to at least one (1) water closet and one (1) lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one (1) water closet and lavatory located in the same story as the bedroom or an adjacent story.

(iv) Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

(v) Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of § 13-121; the heating facilities and electrical receptacle requirements of § 13-122; and the smoke detector and emergency escape requirements of § 13-123.

(e) 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.

(f) Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

(i) A unit occupied by not more than two (2) occupants shall have a clear floor area of not less than two hundred twenty (220) square feet (20.4m²). A unit occupied by three (3) occupants shall have a clear floor area of not less than three hundred twenty (320) square feet (29.7 m²). These required areas shall be exclusive of the areas required by subsections (ii) and (iii).

(ii) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than thirty (30) inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

(iii) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(iv) The maximum number of occupants shall be three (3).

(g) Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage. (as added by Ord. #07-01, Feb. 2007)

13-121. Plumbing facilities and fixture requirements. (1) General.

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

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

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

(b) **Rooming houses.** At least one water closet, lavatory and bathtub or shower shall be supplied for each four (4) rooming units.

(c) **Hotels.** Where private water closets, lavatories and baths are not provided, one (1) water closet, one (1) lavatory and one (1) bathtub or shower having access from a public hallway shall be provided for each ten (10) occupants.

(d) **Employees' facilities.** A minimum of one (1) water closet, one (1) lavatory and one (1) drinking facility shall be available to employees.

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

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

(b) **Location.** Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one (1) flight of stairs and shall have access from a common hall or passageway.

(c) **Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one (1) story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of five hundred (500) feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of five

hundred (500) feet (152 m) from the employees' regular working area to the facilities.

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

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

(b) Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

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

(5) Water system. (a) General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the city's currently adopted plumbing code.

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

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

(d) 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

adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

(6) Sanitary drainage system. (a) General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(b) Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects. (as added by Ord. #07-01, Feb. 2007)

13-122. Mechanical and electrical requirements. (1) General.

(a) Scope. The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided.

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

(2) Heating facilities. (a) Facilities required. Heating facilities shall be provided in structures as required by this subsection.

(b) Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68° F (20° C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

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

(c) 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.

(i) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

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

(d) 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:

(i) Processing, storage and operation areas that require cooling or special temperature conditions.

(ii) Areas in which persons are primarily engaged in vigorous physical activities.

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

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

(b) Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

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

(c) Clearances. All required clearances to combustible materials shall be maintained.

(d) Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

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

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

(4) Electrical facilities. (a) Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and subsection (5).

(b) Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire 120/240 volt, single-phase electrical service having a rating of not less than sixty (60) amperes.

(c) Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing,

insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

(5) Electrical equipment. (a) Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

(b) Receptacles. Every habitable space in a dwelling shall contain at least two (2) separate and remote receptacle outlets. Every laundry area shall contain at least one (1) grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one (1) receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

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

(6) Elevators, escalators and dumbwaiters. (a) General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in ASME A17.1, appendix N, except where otherwise specified by the authority having jurisdiction.

(b) Elevators. In buildings equipped with passenger elevators, at least one (1) elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one (1) elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

(7) Duct systems. (a) General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function. (as added by Ord. #07-01, Feb. 2007)

13-123. Fire safety requirements. (1) General. (a) Scope. The provisions of this section shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

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

(2) Means of egress. (a) General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the city's currently adopted building code.

(b) Aisles. The required width of aisles in accordance with the city's currently adopted building code shall be unobstructed.

(c) 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 city's currently adopted building code.

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

(3) Fire-resistance ratings. (a) Fire-resistance-rated assemblies. The required fire resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

(b) Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

(4) Fire protection systems. (a) General. 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 city's currently adopted fire code.

(b) Smoke alarms. Single or multiple-station smoke alarms shall be installed and maintained in all residential occupancies and in dwellings not regulated in specific residential occupancies, regardless of occupant load at all of the following locations:

(i) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(ii) In each room used for sleeping purposes.

(iii) 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 (1) full story below the upper. Single or multiple-station smoke alarms shall be installed in other groups in accordance with the city's currently adopted fire prevention code.

(c) Power source. In residential occupancies and in dwellings not regulated as residential 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 over current protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

(d) Interconnection. Where more than one (1) smoke alarm is required to be installed within an individual dwelling unit in residential occupancies and in dwellings not regulated as residential occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions: (i) Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.

(ii) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes. (as added by Ord. #07-01, Feb. 2007)

13-124. Standards. This section lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in § 13-102(7).

American Society of Mechanical Engineers Three Park Avenue ASME New York, NY 10016-5990		
Standard reference number	Title	Referenced in code section number
A17.1--2000	Safety Code for Elevators and Escalators with A17.1a 2002 Addenda	606.1
ASTM International 100 Barr Harbor Drive ASTM West Conshohocken, PA 19428-2959		
Standard reference number	Title	Referenced in code section number
F1346--91(2003)	Performance Specifications for Safety Covers and Labeling Requirements for all Covers for Swimming Pools, Spas and Hot Tubs	303.2
International Code Council 5203 Leesburg Pike, Suite 600 ICC Falls Church, VA 22041		
Standard reference number	Title	Referenced in code section number
NEC	National Electric Code--Administrative Provisions	201.3, 604.2
SBCCI	*Standard Building Code®	102.3, 201.3, 401.3, 702.1, 702.2, 702.3
SBCCI	*Standard Fire Prevention Code	201.3, 704.1, 704.2
SBCCI	*Standard Gas Code	102.3
SBCCI	*Standard Mechanical Code	102.3, 201.3
IPC-06	*Standard Plumbing Code	201.3, 505.1, 602.2, 602.3
IZC-06	Bartlett Zoning Ordinance	102.3, 201.3

*Or most recently adopted code by International Code Council.
(as added by Ord. #07-01, Feb. 2007)

CHAPTER 2

MISCELLANEOUS

SECTION

13-201. Open burning permits.

13-202. Accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperable motor tools, equipment, household goods, or building materials.

13-201. Open burning permits. (5) A request is filed with the Shelby County Air Pollution Officer giving the reason why no method except open burning can be employed to dispose of the material involved, the amount and kind of material to be burned, the exact location where the burning will take place, and the dates when the open burning will be done.

(6) Approval is received from the Shelby County Air Pollution Officer, permission must be secured from the City of Bartlett Fire Department by obtaining an approved Bartlett Fire Department permit.

(7) The burning will be done between the hours of 9:00 A.M. and 4:00 P.M., or as authorized by the health officer. (Ord. #89-12, July 1989)

13-202. Accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperable motor tools, equipment, household goods, or building materials. The accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperable motor tools, equipment, household goods, or building materials on public and private property is hereby found to create an unsightly condition upon said property tending to reduce the value thereof, to invite plundering, to create fire hazards to the health and safety of minors. Such accumulation and storage of tools, equipment, or building materials is further found to promote urban blight and deterioration in the community; to violate the zoning regulations of the city in many instances, particularly where such tools, equipment, or building materials are maintained in the required yard areas of residential property; and that such wrecked, junked, abandoned, or partially dismantled or inoperative tools, equipment, or building materials are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of such tools, equipment, or building materials on public and private property, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in the city code. (Ord. #86-11, June 1986)

CHAPTER 3

JUNKED VEHICLES

SECTION

- 13-301. Definitions.
- 13-302. Violations a civil offense.
- 13-303. Exceptions.
- 13-304. Notice to remove.
- 13-305. Enforcement.
- 13-306. Penalty for violations.

13-301. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,

but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

13-302. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle unless parked within the confines of an enclosed structure.

13-303. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any

zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.

13-304. Notice to remove. Whenever it shall appear that a violation of the provisions of this chapter exists, the building inspector shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that said motor vehicle violates the provisions of this chapter and directing that said motor vehicle be moved to a place of lawful storage within seventy-two (72) hours. Such notice shall be served upon the owner of the vehicle by leaving a copy of said notice on or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting said notice upon the premises. In the case of publicly owned property, notice to the owner of the property where the vehicle is found is hereby dispensed with. (Ord. #74-9, June 1974)

13-305. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized, when necessary, to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may (1) request the city judge to issue a summons, or (2) request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

13-306. Penalty for violations. Any person violating this ordinance shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this ordinance. Each day the violation of this ordinance continues shall be considered a separate violation.

CHAPTER 4

LOCATION OF FENCES ON PRIVATE PROPERTY

SECTION

13-401. Definitions.

13-402. Fences and shrubbery prohibited in front of dwelling--exceptions.

13-403. Location less than thirty (30) feet to easement prohibited.

13-404. Elimination of existing hazards.

13-405. Appeal to the board of mayor and aldermen.

13-406. Building permit still required.

13-407. Penalty.

13-401. Definitions. As used in this chapter, the following words shall have the following respective meanings:

(3) "Dedicated passage easement" shall mean any line or adjacent to any real property wherein the City of Bartlett maintains a proprietary interest duly dedicated for the use as a street or sidewalk.

(4) "Fence" shall mean a structure or barrier intended to prevent escape or intrusion, mark a boundary or for aesthetic purposes regardless of the method or materials used in its construction, including but not limited to post, cross bars, wire, boards, metal or other construction materials.

(5) "Occupant" shall mean any owner, lease holder or other person who has the power to exert influence over the placement or construction of shrubbery or fences on the subject's real property.

(6) "Shrubbery" shall mean any planting or growth of single stemmed or several stemmed plant or brush whose foliage extends for a majority of the plant's height, including but not limited to single plantings or multiple arrangements of plants. (Ord. #77-1, Feb. 1977)

13-402. Fences and shrubbery prohibited in front of dwelling--exceptions. No occupant shall permit to be located in the recognized front of his dwelling any fence or shrubbery of height in excess of thirty (30) inches measured from ground level; provided however, this prohibition shall not apply to decorative or aesthetic shrubbery located within eight (8) feet of said structure; and provided further this prohibition shall not apply to single plantings of shrubbery which do not impede or obstruct the line of sight of drivers of vehicles on public roads or a driver's turning movements to or from public or private drives. (Ord. #77-1, Feb. 1977)

13-403. Location less than thirty (30) feet to easement prohibited. No occupant shall permit to be located any fence or shrubbery of height greater than thirty (30) inches within thirty (30) feet of any dedicated passage easement, as hereinbefore defined; provided however, this prohibition shall not

apply to single shrubbery plantings which do not impede or obstruct the vision of drivers of vehicles on public roads, or making turning movements to or from public and private drives. (Ord. #77-1, Feb. 1977)

13-404. Elimination of existing hazards. If an occupant's existing fence and/or shrubbery is in violation of this chapter and the city building inspector, safety director and/or city engineer determines that said fence or shrubbery constitutes a substantial hazard to pedestrians, drivers of motor vehicles, or other persons rightfully on or about the premises then the city code enforcement director and/or city engineer may issue a directive to the occupant requiring that occupant to modify or eliminate the non-complying fence and/or shrubbery within a period of not less than thirty (30) days. (Ord. #77-1, Feb. 1977, modified)

13-405. Appeal to the board of mayor and aldermen. In any instance in which the city building inspector and/or safety director has issued a directive requiring the modification or removal of non-complying fences and/or shrubbery, the occupant shall have the vested right to appeal that directive to the board of mayor and aldermen; provided however, said appeal must be filed in writing with the Mayor of the City of Bartlett within fifteen (15) days from the issuance of the directive and the mayor shall schedule an appeal hearing on the agenda of the full board and so notify the occupant in order that the occupant shall receive a full hearing to determine if the decision of the city building inspector and/or safety director was reasonable and proper. (Ord. #77-1, Feb. 1977)

13-406. Building permit still required. Nothing in this chapter shall be construed to vary or eliminate the existing requirements for a building permit to construct a fence or other similar structure. (Ord. #77-1, Feb. 1977)

13-407. Penalty. Any violation of this chapter shall subject the violator to a fine not exceeding fifty dollars (\$50.00) for each violation, each day that the fence or shrubbery is allowed to continue constituting a separate and distinct violation hereof. (Ord. #77-1, Feb. 1977)

CHAPTER 5

NUISANCE CONTROL

SECTION

- 13-501. Designation of health officer.
- 13-502. Nuisance prohibited.
- 13-503. Abatement of nuisances and other conditions.
- 13-504. Assistance of police in enforcing health laws.
- 13-505. Obedience to regulations and orders of health department.
- 13-506. Right of entry of health department personnel.
- 13-507. Penalties.

13-501. Designation of health officer. The Director of the Memphis and Shelby County Health Department, his designees and assigns, is hereby designated and empowered as the Health Officer for the City of Bartlett and pursuant to the terms of this chapter is granted authority within the City of Bartlett and its jurisdictional limits to enforce the health ordinances of the City of Bartlett including but not limited to the provisions of this chapter and whenever the term health officer is used in this and other chapters it is intended to refer to the said director. (Ord. #79-14, June 1979)

13-502. Nuisances prohibited. No person shall cause, keep or permit any material, substance or condition which is, or is likely to become, a public nuisance, by the emission of odors, fumes, dusts, vapors, or gases that are offensive, providing a harborage for mosquitoes or rodents, or which may imperil or affect the comfort, health or life of other persons. Any such person creating or maintaining such a nuisance within the city limits or within one (1) mile thereof shall be guilty of a misdemeanor. (Ord. #79-14, June 1979)

13-503. Abatement of nuisances and other conditions. It shall be the duty of the health department, through the health officer, engineers, assistants, environmentalists or other employees, to serve notice in writing upon the owner, occupant or agent of any lot, building or premises in or upon which any nuisance or violation of this chapter, or regulations or orders of the health department may be found, or upon the person maintaining any nuisance, or aiding therein, requiring him to abate or correct the same in such manner as the health department shall prescribe, within a reasonable time. It shall not be necessary in any case for the health officer to specify in his notice the manner in which a nuisance shall be abated unless he shall deem it advisable to do so. Such notices may be given or served by engineers, assistants, environmentalists or other employees of the health department, as well as by the health officer. If the person to whom such notice is lawfully directed shall fail, neglect or refuse to comply with the requirements of such order, within the time specified, he

shall be guilty of a misdemeanor, and each day's violation shall constitute a separate offense. Upon the failure of such person to comply with such requirements, it shall be the duty of the department of health, whenever public necessity requires it, to proceed at once, upon the expiration of the time specified in such notice, to cause such nuisance to be abated.

Whenever the owner, occupant, or agent of any premises or person maintaining or aiding in the maintenance of a nuisance is unknown or cannot be found, the department of health shall proceed to abate the nuisance without notice.

In the event any nuisance is abated by the department of health, it shall keep an itemized account thereof and shall certify a bill thereof to the city attorney, whose duty it shall be to collect the same according to law. (Ord. #79-14, June 1979)

13-504. Assistance of police in enforcing health laws. Whenever necessary to carry out the provisions of the health and sanitary laws, the health officer shall have the power to call upon the chief of police for a detail of men, and the chief of police shall furnish such men, and the men so detailed shall act under the direction of the health officer for the time being, for the purpose of carrying out the provisions of any health or sanitary law or regulation, and for the power to enter buildings and abate nuisances therein conferred upon the department of health. (Ord. #79-14, June 1979)

13-505. Obedience to regulations and orders of health department. Every person shall observe and obey every special regulation and every order of the department of health, the health officer and engineers, assistants, environmentalists or other employees of the health department that is or may be made for the purpose of carrying into effect the provisions of the public health and sanitary laws and ordinances. (Ord. #79-14, June 1979)

13-506. Right of entry of health department personnel. For the purpose of carrying out the requirements of this chapter and other laws and ordinances relating to public health and sanitation; and the regulations of the health department, the health officer and his authorized representatives, including engineers, assistants, environmentalists and other employees, shall be permitted at all reasonable times to enter into any manufacturing plants, business buildings or other buildings, and all lots, grounds and premises, in order to thoroughly examine any item in relation to public health and sanitation and other conditions thereon and therein. (Ord. #79-14, June 1979)

13-507. Penalties. Should any person be convicted of violating any provision of this chapter there shall be assessed a fine not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each day that the nuisance, after

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the time of notice specified under § 13-503 hereinbefore, shall remain unabated.
(Ord. #79-14, June 1979)

CHAPTER 6

[DELETED]

(Ord. #92-15, Oct. 1992, as deleted by Ord. #07-01, Feb. 2007)

CHAPTER 7

UNSAFE BUILDING ABATEMENT CODE

SECTION

- 13-701. Unsafe building abatement code adopted.
- 13-702. Definitions.
- 13-703. Enforcement.
- 13-704. Powers of the director.
- 13-705. Conditions rendering a building unsafe.
- 13-706. Inspection and owner notification.
- 13-707. Hearing.
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13-701. Unsafe building abatement code adopted. Pursuant to the authority granted by Tennessee Code Annotated, § 13-21-101, et seq. this chapter to be known as the "Unsafe Building Abatement Code," for the purpose of insuring the safety of the citizens of Bartlett from the structures which are unfit for human occupation or use, is hereby adopted. (as added by Ord. #06-22, Oct. 2006)

13-702. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter unless a different meaning clearly appears from the context:

(7) "Building" means any building, dwelling, or structure, or part thereof, used or intended to be used for human occupancy, and includes any accessory structures belonging thereto or usually enjoyed therewith.

(8) "City" means the City of Bartlett, Tennessee.

(9) "Director" means the director of the code enforcement department (also known as code enforcement official) of the city, or his authorized agent.

(10) "Owner" means the holder(s) of the legal title in fee simple and every mortgagee of record.

(11) "Party in interest" means any individual, association, corporation or others who have interest of record in a building and who are in possession thereof.

(12) "Public authority" means any officer who is in charge of any department of the City of Bartlett, Shelby County or the State of Tennessee relating to health, fire, building regulations, public safety, or other activities concerning the structures in the city and the public safety.

(13) "Unsanitary" means any nuisance which is a danger to the health, safety and welfare of the public.

(14) "Nuisance" means anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, to interfere with the comfortable enjoyment of life or property.

The use of the singular number in this chapter shall be deemed to include the plural and the plural the singular. The use of either gender shall apply to both genders. (as added by Ord. #06-22, Oct. 2006)

13-703. Enforcement. The person responsible for enforcement of this chapter shall be the director of code enforcement. (as added by Ord. #06-22, Oct. 2006)

13-704. Powers of the director. The director is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(1) To investigate the conditions of buildings in the city in order to determine which are unsafe;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purposes of making inspections provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter;

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #06-22, Oct. 2006)

13-705. Conditions rendering a building unsafe. An unsafe building shall include any building that has any of the following conditions, such that the life, health, property or safety of its occupants or the general public are endangered:

(1) Any means of egress or ingress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.

(2) Any means of egress or ingress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, are in disrepair or in a dilapidated or non-working condition such that the means of egress or ingress could be rendered unsafe in case of fire or panic.

(3) The stress in any material, member or portion thereof due to all imposed loads including dead load exceed the stresses allowed in the International Building Code.

(4) The building has been damaged by fire, flood, earthquake, wind or other cause, to the extent that the structural integrity of the building is less than it was prior to the damage and is less than the minimum requirements established by the International Building Code.

(5) The building has an exterior appendage or portion thereof not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the International Building Code.

(6) The building is manifestly unsafe or unsanitary for the purpose for which it is being used.

(7) The building as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.

(8) The building has been constructed or maintained in violation of a specific requirement of the standard codes of the city, county, state or federal law.

(9) The building is in such a condition as to constitute a public nuisance.

(10) The building is unsafe, unsanitary or not provided with adequate ingress or egress or constitutes a fire hazard, or is otherwise dangerous to human life, or in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(11) The building is unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such building unsafe or unsanitary or dangerous or detrimental to the health, safety or morals or otherwise harmful to the welfare of the residents of the City of Bartlett. (as added by Ord. #06-22, Oct. 2006)

13-706. Inspection and owner notification. (1) Inspection. The director shall inspect or cause to be inspected any building under the following circumstances:

(a) A public authority requests an inspection.

(b) An inspection may be made by the director when he has reason to believe the structure is unfit or unsafe.

(2) Notification. If the director inspects a building and determines it to be unsafe as defined in this chapter, the director shall:

(a) Serve a certified letter of complaint on the owner and any party in interest stating the basis upon which the building has been determined unsafe. The letter of complaint shall contain notice of a time and date for a hearing before the director (or his designated agent), said date being not more than thirty (30) days, nor less than ten (10) days from the date the letter of complaint is served. Service shall be complete upon mailing.

(b) If the whereabouts of the owner is unknown and the same cannot be ascertained by the director in the exercise of reasonable diligence, the director shall make affidavit to that effect, and publish a notice of the complaint and hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the city. A notice shall also be posted in a conspicuous place on the premises affected by the letter of complaint. (as added by Ord. #06-22, Oct. 2006)

13-707. Hearing. The hearing before the director shall give the owner and a party in interest the opportunity to respond to the letter of complaint as follows:

(1) The owner and a party in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the letter of complaint.

(2) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the director. (as added by Ord. #06-22, Oct. 2006)

13-708. Condemnation. If, after such notice and hearing, the director determines that the building is unsafe, he shall state, in writing, his findings of fact in support of such determination and shall serve a certified letter of condemnation to the owner, which shall contain an order to:

(1) Vacate and close and/or repair, alter or improve the building or structure in such a manner as to make it safe and fit for human occupation or demolish the structure.

(2) If the repair, alteration, or improvement cost is substantial, the director may order the structure to be removed or demolished.

(3) The letter of condemnation shall contain a time limitation of not less than sixty (60) days to be determined by the director based on the condition of the building and the potential for rehabilitation.

(4) If the director finds a building to be unsafe and if, after the director has ordered the building repaired, improved, demolished, vacated or closed and if the owner does not take such action, the director may post signs stating that "THIS BUILDING IS UNSAFE AND UNFIT FOR HUMAN USE. THE USE OR OCCUPATION OF THE BUILDING FOR HUMAN OCCUPATION OR USE IS PROHIBITED AND UNLAWFUL." The director may take such action as he deems necessary to protect the public from the structural failure of any building or structure, including but not limited to closing streets, walks, erecting barricades, etc.

(5) At any time after the initial inspection, the director may cause the utilities (gas, water, and electricity) to be disconnected, should they, in his opinion, pose a threat to the public safety. (as added by Ord. #06-22, Oct. 2006)

13-709. Condemnation appeal. The owner or any party in interest may appeal the decision of the director in accordance with the following:

(1) The decision of the director may be appealed to the City of Bartlett Code Appeals Board or its successor. The appeal shall be made within ten (10) days of the date of the letter of condemnation.

(2) If the board agrees with the director's finding, the building shall be repaired, altered, improved or demolished as provided in the letter of condemnation within not less than sixty (60) days after the board makes its written findings, a copy of which shall be served on the owner or party in interest. (as added by Ord. #06-22, Oct. 2006)

13-710. Repair, improvement or demolition by city. (1) If the owner fails to comply with the letter of condemnation, and after the time allowed expires, or if the board agrees with the letter of condemnation, and after the time allowed for appeals expires, or if the board agrees with the director, the director may cause the building or structure to be repaired, altered, removed, or demolished.

(2) The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition shall be determined by the director and shall be a lien against said real property. These costs shall be placed upon the tax rolls of the City of Bartlett as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interests as delinquent property taxes. Notice of such lien shall be filed in the office of the Register of Shelby County. If the building is removed or demolished by the director, he shall sell the materials of such structure and shall credit the proceeds of such sale against the costs of the removal or demolition and any balance remaining shall be deposited in the circuit court. (as added by Ord. #06-22, Oct. 2006)

13-711. Judicial review. Any person affected by an order issued by the director may file a bill in Chancery Court for Shelby County as provided in Tennessee Code Annotated, § 13-21-106. (as added by Ord. #06-22, Oct. 2006)

13-712. Immediate dangers to the public. No provision of this chapter shall limit the director in taking any action authorized in other sections of this chapter to protect the public from immediate hazards or dangers posed by any building. (as added by Ord. #06-22, Oct. 2006)