CITY OF KETTERING

DONALD E. PATTERSON, MAYOR • BILL LAUTAR, VICE MAYOR
BRUCE E. DUKE • JACQUE FISHER • TONY KLEPACZ • ROBERT SCOTT • JOSEPH D. WANAMAKER

KETTERING COUNCIL
AGENDA

September 24, 2019

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:00 P.M.	**COUNCIL WORKSHOP**	Kettering Room
7:30 P.M.	**REGULAR MEETING**	Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

APPROVAL OF MINUTES
September 10, 2019 - Council Meeting & Workshop Minutes

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSION
Proclamation Board of Community Relations 50th Anniversary

PUBLIC HEARINGS

PUBLIC COMMENT ON LEGISLATION
(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

RESOLUTIONS
1. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for an upgrade of the Government Center fuel island.
2. Authorizing the City Manager to accept a grant from the Dayton Foundation.
3. Authorizing the City Manager to accept a Safety Intervention Program Grant from the Ohio Bureau of Workers' Compensation.
4. To amend Resolution No. 10118-18.
5. Authorizing an additional expenditure of funds for street light maintenance.
6. Authorizing the City Manager to contract for entertainment for the Fraze Pavilion 2020 performance season.
7. To make supplemental appropriations for current expenses and other expenditures of the City of Kettering, State of Ohio, during the fiscal year ending December 31, 2019.

ORDINANCES IN FIRST READING
8. To amend Chapters 1321, 1322, 1323, 1324, 1325, 1326, and 1327 and to enact Chapter 1328 of the Codified Ordinances of the City of Kettering.

CERTIFICATIONS AND PETITIONS

MANAGER'S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering wishes to make certain that all citizens have the opportunity to actively participate in their local government. If you have a disability and require accommodations to participate in a Council meeting, please contact the Clerk of Council at 296-2416 so that reasonable modifications can be made.

KETTERING CITY CALENDAR
2019

September 23	7:30 p.m.	Sister Cities
September 24	6:00 p.m.	Council Workshop
	7:30 p.m.	City Council Meeting
October 3	4:00 p.m.	Parks, Recreation and Cultural Arts Advisory Board
October 7	7:00 p.m.	Planning Commission
October 8	4:00 p.m.	Partners for Healthy Youth
	6:00 p.m.	Council Workshop
	7:30 p.m.	City Council Meeting
October 14	7:00 p.m.	Board of Zoning Appeals

Office of the Mayor

Proclamation

Whereas:

The Kettering City Council established the Kettering Board of Community Relations in 1969 with the mission of formulating and developing community inclusiveness, diversity, fair housing, and positive intergroup interactions within the city and the surrounding region; and

WHEREAS: *The Board of Community Relations encompasses a group of community volunteers who are dedicated to promoting and encouraging the creation and maintenance of an inclusive community by fostering equal opportunities and respect for all persons; and*

WHEREAS: *The Board of Community Relations promotes collaboration among diverse segments of the community including civic organizations, businesses, schools, social agencies, and labor associations to improve intergroup relations throughout the Kettering community; and*

WHEREAS: *The board works diligently to sponsor educational activities in partnership with the Miami Valley Fair Housing Center regarding equal opportunity in employment, housing, public accommodations, and public services; and*

WHEREAS: *The board annually sponsors informative forums for landlord and tenants regarding fair housing practices; and*

WHEREAS: *The Board of Community Relations has consistently celebrated the legacy of Dr. Martin Luther King Jr. through poster contests, community celebrations, essay contest, and partaking in a peace walk to foster positive community relations.*

NOW, THEREFORE, *I, Donald E. Patterson, Mayor of the City of Kettering, Ohio, do hereby proclaim*

September 24, 2019

to be

BOARD OF COMMUNITY RELATIONS DAY

in the City of Kettering, Ohio, and urge all citizens to join the Kettering City Council on congratulating the Board of Community Relations on its 50th anniversary, and wishing them continued success in promoting peace throughout mutual respect, education, and inclusiveness for all people in the Kettering community.

IN WITNESS WHEREOF, *I have hereunto set my hand and caused the Seal of the City of Kettering, Ohio, to be affixed this 24th day of September in the Year of our Lord, Two Thousand and Nineteen.*

DONALD E. PATTERSON
Mayor of the City of Kettering, Ohio

CITY OF KETTERING, OHIO

A RESOLUTION

By: **No.**

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES TO CONTRACT FOR AN UPGRADE OF THE GOVERNMENT CENTER FUEL ISLAND

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for an upgrade of the Government Center fuel island. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____, 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER, III,
Law Director

Estimated Cost:	$85,000.00
Amount Budgeted:	$85,000.00
Acct. No.:	9741-19400

(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By: **No.**

AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE DAYTON FOUNDATION

BE IT RESOLVED by the Council of the City of Kettering, Ohio that:

Section 1. The City Manager is hereby authorized, on behalf of the City, to accept a grant in the amount of $2,500 from the Dayton Foundation and to expend said grant funds to support handicap accessible seating upgrades and/or companion seats for concerts at Fraze Pavilion in a manner consistent with the restrictions placed on that grant by the Dayton Foundation. Furthermore, this Council hereby ratifies the grant application.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER III,
Law Director

Estimated Cost: $2,500.00
Amount Budgeted: $0
Acct. No.: Special Grants & Programs

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By: **No.**

AUTHORIZING THE CITY MANAGER TO ACCEPT A SAFETY INTERVENTION PROGRAM GRANT FROM THE OHIO BUREAU OF WORKERS' COMPENSATION

WHEREAS, by Resolution No. 10300-19, dated May 14, 2019, this Council authorized the City Manager to apply for the *Safety Intervention Program Grant* (the "grant") from the Ohio Bureau of Workers' Compensation; and

WHEREAS, the City applied for the grant, and the City's grant application was approved;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kettering, Ohio that:

Section 1. The City Manager is authorized to take all necessary and proper action to accept the grant from the Ohio Bureau of Workers' Compensation and sign any related instruments. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER III,
Law Director

Estimated Cost:	$45,916.57
Amount Budgeted:	$11,500.00
Acct. No.:	General Fund

(Requested by: Fire Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By: **No.**

TO AMEND RESOLUTION NO. 10118-18

WHEREAS, Resolution No. 10118-18 authorized the City Manager to enter into one or more agreements with Light Fantastic, Inc. for lighting, light technician, and technical director services for the Fraze Pavilion; and

WHEREAS, additional technician services were needed for late season shows;

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Resolution No. 10118-18 is amended to allow an expenditure of funds of up to $217,000.00.

Section 2. In all other respects, Resolution No. 10118-18 shall remain in full force and effect.

Section 3. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER, III,
Law Director

Estimated Cost:	$217,000.00
Amount Budgeted:	$217,000.00
Acct. No.:	2200-72550 - $37,000.00
	2200-72510 - $180,000.00

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By: **No.**

AUTHORIZING AN ADDITIONAL EXPENDITURE OF FUNDS FOR STREET LIGHT MAINTENANCE

WHEREAS, due to anticipated costs, additional funds are needed for street light maintenance in 2019;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kettering, State of Ohio, that:

Section 1. An expenditure of funds not to exceed $40,000.00 is authorized during calendar year 2019 for repairs to the City-owned street light system.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER III
Law Director

Estimated Cost:	$40,000.00
Included in Budget:	$30,000.00
Acct. No.	0950-72350

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By: **No.**

AUTHORIZING THE CITY MANAGER TO CONTRACT FOR ENTERTAINMENT FOR THE FRAZE PAVILION 2020 PERFORMANCE SEASON

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to negotiate and enter into contracts for entertainment for the Fraze Pavilion 2020 performance season. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER III,
Law Director

Estimated Cost:	$1,000,000.00
Amount Budgeted:	$430,000.00
Acct. No.	2200-72550

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By: **No.**

TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF KETTERING, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2019

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. To provide for the current expenses and other expenditures of the City of Kettering during the fiscal year ending December 31, 2019, the following supplemental sums are set aside and appropriated:

A. From the General Fund:	
ECONOMIC DEVELOPMENT	
Operating Expenses	$100,000.00
TRANSFERS TO OTHER FUNDS	
Special Grants and Programs Fund	$ 11,479.15
B. From the Fraze Pavilion Operations Fund:	
HUMAN SERVICES	
Operating Expenses	$570,000.00
C. From the Special Grants and Programs Fund:	
Other	$ 48,416.57

Section 2. The Director of Finance is authorized to adjust appropriations within any fund or department as long as the adjustments made do not exceed the total appropriation authorized within that fund or department.

Section 3. The Clerk of Council is authorized and directed to forward a copy of this Resolution to the Montgomery County Auditor.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER, III
Law Director

Estimated Cost: $718,416.57
Amount Budgeted: $0
Acct. No. General Fund, Fraze Pavilion Operations Fund, and Special Grants & Programs Fund

(Requested by: Finance Department)

CITY OF KETTERING, OHIO

AN ORDINANCE

By: **No.**

TO AMEND CHAPTERS 1321, 1322, 1323, 1324, 1325, 1326, AND 1327 AND TO ENACT CHAPTER 1328 OF THE CODIFIED ORDINANCES OF THE CITY OF KETTERING

Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. Chapters 1321, 1322, 1323, 1324, 1325, 1326, and 1327 be amended and Chapter 1328 of the Codified Ordinances be enacted to read as set forth in the attached Exhibit A.

Section 2. If any portion of the amended or enacted chapters or this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2019.

_____
DONALD E. PATTERSON, Mayor

ATTEST:

_____
LASHAUNAH D. KACZYNSKI,
Clerk of Council

CERTIFICATE OF APPROVAL

_____
THEODORE A. HAMER III,

(Requested by: Planning and Development Department)

EXHIBIT A

(33 total pages, including this page)

CHAPTER 1321
DEFINITIONS

SECTION 1321.01 GENERAL

1321.01.1 Title. The regulations in Chapters 1321-1328 shall be known as the Property Maintenance Code of the City of Kettering, Ohio (the "code").

1321.01.2 Interchangeability. For purposes of this code, the following terms, phrases, words, and their derivations shall have the meanings as set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, words in the singular number include the plural number, words in the feminine include the masculine, and words in the masculine include the feminine. Defined terms remain defined terms whether or not capitalized.

1321.01.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the Kettering Building and Zoning codes and the Ohio Fire Code, such terms shall have the meanings ascribed to them as stated in those codes.

1321.01.4 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.

1321.01.5 Sections. Whenever the words "dwelling unit," "dwelling," "lot," "premises," "building," or "story" are stated in this code, they shall be construed as though they were followed by the words "or any section thereof."

SECTION 1321.02 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides a stable, positive connection.

APPROVED. Approved by the Chief Code Official or the Chief Building Official.

BASEMENT. That portion of a building that is all or partly underground, but having at least 1/2 of its height below the average level of the adjoining ground. The height of a basement is measured between the surface of the basement floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and ceiling next above it.

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

BED BUG. An insect of the species "cimex lectularius," commonly referred to as a bed bug.

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

BLIGHT.

1. A parcel of real estate, lot, or premises that has one or more of the following conditions:

    a. A structure that is dilapidated, unsanitary, unsafe, or vermin infested and that because of its condition has been designated by the Chief Code Official as unfit for human habitation or use;

    b. The property poses a direct threat to public health or safety in its present condition by reason of environmentally hazardous conditions, solid waste pollution, or contamination;

    c. Tax or special assessment delinquencies exceeding the fair value of the land.

2. A parcel of real estate, lot, or premises that has two or more of the following conditions that, collectively considered, adversely affect surrounding or community property values or entail land use relationships that cannot reasonably be corrected through the Kettering Zoning Code:

    a. Dilapidation and deterioration;

    b. Age and obsolescence;

    c. Inadequate provision for ventilation, light, air, sanitation, or open spaces;

    d. Unsafe and unsanitary conditions;

    e. Hazards that endanger lives or properties by fire or other causes;

f. Noncompliance with this code, the Kettering Building, or Zoning Code or the Ohio Fire Code;

g. Nonworking or disconnected utilities;

h. Is vacant or contains an abandoned structure;

i. Vermin infestation;

j. Extensive damage or destruction caused by a major disaster when the damage has not been remediated within a reasonable time;

k. Identified hazards to health and safety that are conducive to ill health, transmission of disease, juvenile delinquency, or crime;

l. Ownership or multiple ownership of a single parcel when the owner, or a majority of the owners of a parcel in the case of multiple ownership, cannot be located;

m. One or more vehicles improperly stored; and

n. An accumulation of litter.

BUILDING. An enclosed structure which is permanently constructed, the use of which requires permanent location and attachment on the ground.

CAR PORT. A roofed shelter enclosed by no more than three (3) walls, for the purpose of providing shelter for operable automobiles and is either freestanding or attached to a principle or accessory structure.

CHIEF BUILDING OFFICIAL. The City of Kettering official who is designated and charged with the administration and enforcement of the Kettering Building Codes, or any duly authorized representative.

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

CITY. The City of Kettering, Ohio.

COMPOST. A mixture of decomposing organic material that is stored and maintained under controlled conditions for use in fertilizing soils.

CONDEMN. To adjudge unfit for occupancy or use.

CROWN. The live branches, twigs, and foliage of a tree.

CROWN CLOSURE. The percentage of a given lot or lots covered by tree crowns.

CULTIVATED. A garden or other yard area that is routinely improved, plowed, fertilized, prepared and maintained for the purpose of raising crops, or ornamental and flowering plants and bushes.

DEBRIS. Broken, dismantled, or destroyed remains of a tangible object and those remains create an unsightly or unsanitary condition.

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

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

DWELLING UNIT. One or more rooms designed, occupied, and intended for occupancy as a separate living quarters for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

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

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

EROSION. The detachment, wearing away, or movement of land surface through the action of forces such as water, wind, ice, or gravity.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of the owner, an owner's authorized agent, or operators of such premises.

EXTERIOR STORAGE. Any materials stored outdoors on a property, lot, or premises, including under an open-sided structure if visible from the public view.

EXTERMINATION. The control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing materials that may serve as their food, by poisoning, spraying, fumigating, or trapping, by blocking their access to a structure, or by any other approved and legal pest elimination methods.

FIRE MARSHAL. The City of Kettering official who is designated and charged with the administration and enforcement of the Ohio Fire Code, or any duly authorized representative.

GARAGE. An enclosed structure which was originally constructed and equipped to park and/or store vehicles.

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

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.

HABITABLE SPACE. Space in a structure that is used or intended to be used for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HISTORIC AUTOMOBILE. Any vehicle licensed by the State of Ohio as a Historic Motor Vehicle.

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

INFESTATION. The presence, within or contiguous to a structure or premises, of insects, rats, vermin, or other pests in numbers large enough to be determined harmful.

INOPERABLE/INOPERATIVE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reasons, including but not limited to: being hazardous to operate; having one or more flat tires; being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power. Any such vehicle shall be deemed un-roadworthy if it does not have all operational and safety-related components maintained in a manner that makes it legal and safe to operate on the public streets.

JUNK. Scraps, pieces, broken pieces, or non-operable pieces of machinery, appliances, vehicles, or equipment; dilapidated furniture and any pieces of furniture; building materials not intended for use on site; and any other materials or pieces of materials of similar character or condition.

LABELED. Equipment, materials, or products to which have 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 whose labeling indicates either that the equipment, material, or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide, or offer possession or occupancy of a dwelling, dwelling unit, building, premises, 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.

LITTER. Exterior accumulation of junk, debris, garbage, waste, rubbish, or anything else of an unsightly or unsanitary nature.

MANUFACTURER'S LISTING. Installation instructions and standards of use set by the product's manufacturer.

NATURAL WOODLAND. Land that has always been covered with a dense growth of trees with a Crown Closure measured at 25% or more. That undeveloped portion of a lot or property that has always been covered by trees, shrubs, and undergrowth and is greater in area than the developed portion of said lot.

NATURALLY WOODED LOT. Any undeveloped lot that has always been covered with a dense growth of trees with a Crown Closure measured at 25% or more.

NEGLECT. The lack of proper maintenance for a building, structure, equipment, system, or fixture.

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

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

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

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

ORC. Ohio Revised Code.

ORGANIZATION. A corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust, or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program.

OWNER. The owner of record as shown on the current tax list of the county auditor; and any purchaser under a land contract. "Owner" also means any person who has a freehold or lesser estate in the premises; a mortgagee or vendee in possession; or any person who has charge, care, or control of the premises as agent, executor, administrator, assignee, receiver, trustee, guardian, or lessee.

PERSON. Any individual, firm, corporation, association, partnership, agent, operator, business trust, estate, syndicate, cooperative, or any entity recognized by law, or anyone in control of a premise or property.

PEST. An annoying insect or other animal that can bring harm, disease, or destructiveness.

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

PUBLIC WAY. Any street, alley, or similar parcel of land, which is deeded, dedicated, or otherwise permanently appropriated to the public for public use.

RIGHT-OF-WAY. A strip of land taken or dedicated for use as a public way. A right-of-way may be occupied by a road, pedestrian walkway, utility line, railroad line, canal, or easement. The right-of-way width is designated in the Official Thoroughfare Plan.

ADJACENT RIGHT-OF-WAY. The portion of right-of-way that is between the property line of a private property and the officially designated street and/or street side edge of curb.

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

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

STREET. A way for vehicular traffic designated by official action as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, place, drive, or otherwise.

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

STRUCTURE. That which is built or constructed, or a portion thereof, that stands on its own; such as, a building, a carport, a fence, a wall, and the like.

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

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

TRASH. All combustible and noncombustible waste material, except garbage.

TREE. Any self-supporting woody plant that usually produces one main trunk and a more or less distinct and elevated head with many branches.

TREE, HIGH RISK. Any tree or portion thereof that is so damaged, decayed, diseased, or of similar condition that, should it fall, poses a danger to adjacent structures and public ways and the occupants thereof.

UNSANITARY. Unclean enough to endanger health.

VACANT. Buildings, properties, and premises which are unoccupied or without authorized human inhabitants.

VEHICLE. Anything on wheels, runners, tracks, designed to float on water, or designed to fly in the air.

VEHICLE COVER. A completely opaque cover that is specifically manufactured and commercially retailed for the purpose of covering a vehicle. General purpose tarps are not considered appropriate vehicle covers.

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

WEEDS. All grasses, annual plants, and vegetation, excluding trees and shrubs, all noxious weeds as defined in ORC Section 5579.04, and including, but not limited to, Canada thistle (circium arvense), wild carrot (daucus carota), bindweed (convolvulus arvensis), ragweed (ambrosia elatior 1), poison ivy (rhus toxicodendron), poison sumac (toxicodendron vernix), or other such vegetation. This term shall not include trees or shrubs, cultivated flowers, ornamental grasses, or crops planted and cultivated for sale or in connection with an agricultural business.

WASTE. All trash, rubbish, garbage, and other refuse or discarded material required to be removed from private or public places.

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

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

YARD, FRONT. As defined in Chapter 1159 of the Zoning Code.

YARD, REAR. As defined in Chapter 1159 of the Zoning Code.

YARD, REQUIRED. As defined in Chapter 1159 of the Zoning Code.

YARD, SIDE. As defined in Chapter 1159 of the Zoning Code.

YARD, STREET SIDE. As defined in Chapter 1159 of the Zoning Code.

CHAPTER 1322
ADMINISTRATION

SECTION 1322.01 GENERAL

1322.01.1 Scope. The provisions of this code shall apply to the maintenance and occupancy of all existing residential and nonresidential structures and all existing premises, whether built upon or undeveloped, vacant or occupied, and shall constitute required minimum maintenance standards for:

- The responsibility of owners, an owners' authorized agent, operators, and occupants;
- The occupancy of existing structures and premises;
- The maintenance of buildings, structures, and premises in a manner that is structurally sound, clean, safe, and sanitary;
- The maintenance of equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire, and other hazards;
- The maintenance of planted areas, the removal of loose trash, junk, and debris, including yard debris, and the storage of trash cans and recycling containers within the adjacent right-of-way; and
- Administration, enforcement, and penalties.

1322.01.2 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety, and welfare as required herein.

1322.01.3 Severability. If any 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.

This code shall not be deemed to be a limitation or restriction on the authority of any other City department or division, but shall be deemed an enlargement of existing authority by virtue of the constitution and statutes of the State of Ohio and the Charter and Codified Ordinances of the City of Kettering.

SECTION 1322.02 APPLICABILITY

1322.02.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

1322.02.2 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.

1322.02.2.1 No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required by this code to be removed from, shut off from, or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress.

1322.02.2.2 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.

1322.02.2.3 Except as otherwise specified herein, the owner or the owner's authorized agent shall be responsible for the required maintenance of buildings, structures, and premises as outlined in this code. Tenants, occupants, or users of a building, structure, or premises may also be responsible for the required maintenance of such building, structure, or premises as outlined elsewhere in this code.

1322.02.3 Application of other codes. Repairs, additions, or alterations to a structure or changes of occupancy shall be done in accordance with the procedures and provisions of the City of Kettering Zoning and Building Codes and the Ohio Fire Code. Nothing in this code shall be construed to cancel, modify, or set aside any provision of the Kettering Building Code, Zoning Code, or Subdivision Regulation.

1322.02.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe, and unsanitary.

1322.02.5 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 instructions.

1322.02.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures officially designated as historic buildings when such buildings or structures are judged by the Chief Code Official to be safe and in the public interest of health, safety, and welfare.

1322.02.7 Manufacturers listing. Where enforcement of a provision of this code would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

1322.02.8 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 Chief Code Official.

1322.02.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section, or provision of this code.

1322.02.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state, or federal law.

SECTION 1322.03 ADMINISTRATION AND CODE ENFORCEMENT

1322.03.1 General. The Chief Code Official shall be the person responsible for enforcement of this code.

1322.03.2 Appointment. The City Manager of the City of Kettering shall appoint a designee who shall serve as the Chief Code Official.

1322.03.3 Deputies. In accordance with the prescribed procedures of this City and with the concurrence of the City Manager and the Planning and Development Director, the Chief Code Official shall have the authority to appoint deputies. The Chief Code Official shall delegate, as they see fit, any of their duties and responsibilities to one or more deputies. Such deputies shall be known as Code Enforcement Officers or Code Enforcement Inspectors.

1322.03.4 Fees. The fees for activities and services performed by the City in carrying out its responsibilities under this code shall be those fees and charges established by the Kettering City Manager in the most current Schedule for Permits, Inspections, Certificates, and Fees.

SECTION 1322.04 DUTIES AND POWERS OF THE CHIEF CODE OFFICIAL

1322.04.1 General. The Chief Code Official is authorized and directed to enforce the provisions of this code. The Chief Code Official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

1322.04.2 Inspections. The Chief Code Official shall make, or cause to be made, all inspections required or necessitated by this code to determine compliance, or shall accept and receive 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 Chief Code Official is authorized to engage such experts as deemed necessary to report upon unusual technical issues that arise in the course of administering and enforcing the provisions of this code.

1322.04.3 Right of entry. The Chief Code Official is authorized and shall have authority to enter upon any premises at any reasonable time for the purposes of delivery of notices or orders in connection with enforcement of this code. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the Chief Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the Chief Code Official is authorized and shall have authority to enter the structure or premises at reasonable times for the purposes of inspection of surrounding grounds that are open and accessible to the public, enclosed common areas, and equipment within such areas.

Except as may be authorized by this or another section of this code, the Chief Code Official shall enter into any private interior or enclosed portion of any building or structure for the purposes of inspection only with the approval of the owner, occupant, or tenant of the same interior or closed portion of the premises. If such structure or premises is unoccupied, the Chief Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused or the owner or other person having charge or control cannot with reasonable effort be found, the Chief Code Official shall have recourse to the remedies provided by law to secure entry.

In the event it is determined by the Chief Code Official, the Chief Building Official, or the Fire Marshal that all or any portion of a building, structure, or premises is causing or threatens to immediately cause an imminent danger or hazard to the public health, safety, and general welfare, then the Chief Code Official is authorized to enter at any time and without advance notice to the owner, tenant, occupant, or user of any such structure, building, or premises for the purposes of inspection.

1322.04.4 Identification. All code enforcement officers shall carry proper identification when inspecting structures or premises in the performance of their duties under this code.

1322.04.5 Notices and orders. The Chief Code Official shall issue all necessary notices or orders to ensure compliance with this code.

1322.04.6 Department records. The Chief Code Official shall keep official records of all business and activities associated with the administration and enforcement of this code. Such records shall be retained in the official records for the period required for retention of such records in the applicable retention schedule.

SECTION 1322.05 APPROVALS

1322.05.1 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 by the Chief Code Official. An alternative material or method of construction may be approved where the Chief Code Official finds that the proposed design is an acceptable industry standard, complies with the intent of the provisions of this code, and that the material, method, or work offered is for the purpose intended and at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, and safety. All such approved alternative materials, methods, and equipment shall be in compliance with all other codes and laws.

1322.05.2 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the Chief Code Official shall have the authority to request manufacturer's documentation or to require tests, at no expense to the City of Kettering, to be made as evidence of compliance.

> **1322.05.2.1 Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the Chief Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency.
>
> **1322.05.2.2 Test reports.** Reports of tests shall be retained by the Chief Code Official for the period required for retention in the applicable retention schedule.

1322.05.3 Used material and equipment. Unless prohibited by Kettering Zoning and/or Building Codes and/or the Ohio Fire Code, the use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment, and devices shall not be reused unless such elements have been reconditioned, placed in good and proper working condition, and tested where necessary.

1322.05.4 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

SECTION 1322.06 VIOLATIONS

1322.06.1 Unlawful acts. No person shall fail or refuse to comply with any Compliance Order of the Chief Code Official. It shall be unlawful for a person to be in conflict with or in violation of any of the provisions of this code.

1322.06.2 Notice of Violation. Notice of a violation of this code shall be given by a Notice of Violation and Order to Comply, hereinafter also referred to as Legal Notice, Notice, or Compliance Order, in accordance with Section 1322.07.

1322.06.3 Prosecution of violation. The Chief Code Official may bring a legal proceeding to restrain or correct any violation of this code or the ORC, and any order(s) issued under either or both, and to require the removal or termination of any unlawful occupancy of a premises or structure in violation of this code or the ORC. Such action shall not preclude pursuit of other remedies prescribed in this code or the ORC.

1322.06.4 Violation penalties. Whoever is convicted of or pleads guilty to a violation of any provision of this code may be deemed guilty of a minor misdemeanor. Any such violation shall be a strict liability offense (malum prohibitum) and no proof of intent shall be necessary. Each day that a violation continues shall be deemed a separate offense.

1322.06.5 Habitual offender. Any person who commits a violation of this code after having been previously convicted by the Court on two (2) separate occasions for committing a violation of this code within a thirty-six (36) month period shall be guilty of a misdemeanor of the fourth degree and shall be fined not less than $150 as part of any sentence.

1322.06.6 Abatement of violation. The imposition of the penalties and fees herein prescribed shall not preclude the Kettering Law Director, or their designee, from instituting appropriate action to permanently 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. The Kettering Law Director may bring an action *in rem* against any premises upon which a nuisance is found. Any action taken shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

1322.06.7 Re-Inspection fees. Any person who neglects, fails, or refuses to correct a violation within the stated compliance deadline provided under Section 1322.07.2 may be assessed a re-inspection fee for each inspection that is needed to confirm compliance after the compliance date. Such fees shall be based upon the costs incurred, including administrative expenses as established by the current Kettering Schedule for Permits, Inspections, Certificates, and Fees.

1322.06.8 Recovery of cost and fees. Upon completion of a re-inspection, completion of emergency repairs, or abatement of violations by the City, the Chief Code Official shall cause to be sent, by certified, pre-posted mail, a fee and cost statement to owner of the property or premises and a copy of the same shall be posted in a conspicuous location on or about the property, structure, building, or premises affected. This statement shall include a demand for payment of the fee and cost amount within thirty (30) days from the date of the statement. If the statement that was attempted to be served by certified, pre-posted mail is returned within fourteen (14) days after the date of mailing showing that it was not delivered, or is not returned within fourteen (14) days of the date of mailing, then a second statement shall be sent via regular US mail, postage pre-paid. If payment of the statement is not made within thirty (30) days of the date of service of the first statement or the date of mailing of the second statement, then the matter constitutes a nuisance and the Chief Code Official is authorized to take the necessary action to cause the amount of the statement to be collected through any available legal process, including under ORC 715.261 and certification to the Montgomery or Greene County Auditor for collection the same as other taxes and assessments are collected.

1322.06.09 Personal accountability for organizational conduct.

1322.06.09.1 An officer, agent, or employee of an organization may be prosecuted for an offense committed by such organization if the officer, agent, or employee acts with the kind of culpability required for the commission of the offense, and any of the following apply:

1. In the name of the organization or in its behalf, the officer, agent, or employee engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which the officer, agent, or employee has direct responsibility;

2. The officer, agent, or employee has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

1322.06.09.2 When an officer, agent, or employee is convicted of an offense by reason of this section, the officer, agent, or employee is subject to the same penalty as if the officer, agent, or employee had acted in their own behalf.

SECTION 1322.07 NOTICES AND ORDERS

1322.07.1 Legal notice. Whenever the Chief Code Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, a legal notice of violation and order to comply shall be given, in the manner prescribed in Sections 1322.07.2 and 1322.07.3, to the person or persons responsible for the violation. Notices for condemnation procedures shall also comply with Section 1322.08.3.

1322.07.2 Form. Such notice prescribed in Section 1322.07.1 shall be in accordance with all of the following:

1. Be in writing;
2. Include a description of the property sufficient for identification;
3. Include a statement of the violation or violations and why the notice is being issued;
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit, building, structure, equipment, premises, or property, as the case may be, into compliance with the provisions of this code;
5. Inform the property owner of the right to appeal;
6. If applicable, include a statement of applicable cost, fees, and penalties and the City's right to file a lien in accordance with this section and Section 1322.06.

1322.07.3 Method of service. Any notice or order of the Chief Code Official shall be deemed to be properly served if a copy thereof is:

1. Delivered personally to the owner of record or person responsible or left at the usual place of abode of the person to whom it is to be served with someone who is eighteen years or older; or
2. Sent by certified mail addressed to the last known address of the owner or person responsible;
3. If the certified notice is returned showing that it was not delivered or if the certified notice is not returned within fourteen (14) days of the date of mailing, then a copy thereof shall be sent by regular mail to the last known address of the owner or person responsible and shall be posted in a conspicuous place in or about the structure affected by such notice.

1322.07.4 Penalties. Penalties, fees, and cost for noncompliance with orders and notices shall be as set forth in Section 1322.06.

1322.07.5 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, 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 and shall furnish to the Chief Code Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility, without condition, for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 1322.08 UNSAFE STRUCTURES AND EQUIPMENT

1322.08.1 General. When a structure or equipment is found by the Chief 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.

1322.08.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.

1322.08.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other

equipment on the premises or within the structure 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.

1322.08.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Chief 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.

1322.08.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered, or occupied contrary to law.

1322.08.1.5 Dangerous structure or premises. For the purpose of this code, any structure, premises, or portion thereof that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit, or other means of egress that does not conform to the Kettering Building Code or Ohio Fire Code as related to the requirements for existing buildings;

2. The walking surface of any required egress pathway is so warped, worn loose, deteriorated, or otherwise unsafe as to not provide safe and adequate means of egress;

3. Any portion of a building, structure, or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged;

4. The building or structure, or any portion or part of the building or structure, or any member, appurtenance, or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not securely anchored, attached, or fastened in place because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way;

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

6. The building or structure is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, illegal activities, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act;

7. Any building or structure that is being maintained in violation of any specific requirement or prohibition applicable to such building or structure under this code to such an extent as to present either a substantial risk of fire, building collapse, or any other threat to life and safety;

8. A building or structure, used or intended to be used for dwelling purposes which, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate or insufficient utilities, or otherwise, is determined by the Chief Code Official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease;

9. Any portion of the exterior premises which because of open excavations, pits, wells, cisterns, or the like; hazardous structures; deteriorated conditions; extreme unsanitary conditions; or other such conditions; is determined by the Chief Code Official to be a hazard to the general public;

10. Any portion of a building remaining on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

1322.08.2 Closing of vacant structures. If the structure is found vacant and unsecured, the Chief Code Official is authorized to order the structure closed up so as not to be an attractive nuisance. If the structure is found vacant, unsecured, and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Chief 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 Chief 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, plus administrative fee, shall be charged against the real estate upon which the structure is located. Such cost and fees shall be collected in accordance with Section 1322.06.8 and shall be a lien upon such real estate and may be collected by any other legal resource.

1322.08.2.1 Minimum Standards for Effective Boarding. The effective boarding of a building shall include, but not be limited to, the securing of doors, windows, or other areas open to ingress and egress and to weather elements. Boarding shall be firmly anchored to the structure and openings wider than 48 inches and shall be reinforced against deflection as needed. A protective treatment shall be applied to all faces exposed to the elements.

1322.08.2.2 Boarded structures. Structures remaining boarded for more than fourteen (14) days may become subject to the conditions of Section 1328.08, Non-Compliant Boarded Structures. The boarding of a structure shall not constitute compliance with the minimum maintenance standards required by this code.

1322.08.3 Notice. Whenever the Chief 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 Section 1322.07.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 1322.07.2.

1322.08.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Chief Code Official shall post on the premises or on the 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.

1322.08.4.1 Placard removal. The Chief 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 Chief Code Official shall be guilty of a minor misdemeanor and subject to penalties in Section 1322.06.4.

1322.08.5 Prohibited occupancy. Any occupied premises condemned and placarded by the Chief Code Official shall be vacated as ordered by the Chief Code Official. No person shall occupy a placarded premises or shall operate placarded equipment, and no owner or any person responsible for the placarded premises or equipment shall let anyone occupy a placarded premises or operate placarded equipment prior to receipt of the Chief Code Official's written determination of compliance.

1322.08.6 Abatement methods. The owner, operator, or occupant of a building, premises, or equipment deemed unsafe by the Chief Code Official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other approved corrective action upon application and approval of all necessary permits. Abatement shall be done in a competent manner and upon completion be reasonably fit for its intended use as determined by the Chief Code Official. Penalties for failure to abate shall be as set forth in Section 1322.06.

1322.08.7 Record. The Chief Code Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

SECTION 1322.09 EMERGENCY MEASURES

1322.09.1 Imminent danger. When, in the opinion of the Chief Code Official and the Chief Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or section 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 Chief Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Chief 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 Chief 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.

1322.09.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the Chief Code Official, there is imminent danger due to an unsafe condition, the Chief Code Official shall order the necessary work to be done, including the boarding up of openings and the discontinuation of utilities, 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 Chief Code Official deems necessary to meet such emergency.

1322.09.2.1 Authority to disconnect service utilities. In case of emergency, the Chief Code Official shall have the authority to authorize disconnection of utility service to a building, structure or system regulated by this code where necessary to eliminate an immediate hazard to life or the public safety. The Chief Code Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure, or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

1322.09.3 Closing streets. When necessary for public safety, the Chief 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.

1322.09.4 Emergency repairs. For the purposes of this section, the Chief Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

1322.09.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the City of Kettering. The Chief Code Official may then recover such costs in accordance with Section 1322.06.8.

1322.09.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Property Maintenance Appeals Board, be afforded a hearing as described in Section 1322.11.

SECTION 1322.10 DEMOLITION

1322.10.1 General. When any structure has become so deteriorated, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy and it is unreasonable to repair the structure, the Chief Code Official shall order the owner of any premises upon which the structure is located to demolish and remove such structure; or, if it reasonable to repair the structure and the structure is capable of being made safe and sanitary by repairs, the Chief Code Official may order the owner to repair the structure and make it safe and sanitary or to demolish and remove at the owner's option. Where a certificate of occupancy has not been issued and there has been a cessation of normal construction of any structure for a period of more than six (6) months, the Chief Code Official shall order the owner to immediately resume construction in accordance with the Kettering Building Code or to demolish and remove such structure.

1322.10.2 Notices and orders. All notices and orders shall comply with Section 1322.07.

1322.10.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Chief Code Official shall cause the structure to be demolished and removed pursuant to Section 1328.07.

1322.10.4 Salvage materials. When any structure has been ordered demolished and removed, the Chief Code Official or other designated City of Kettering official 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 expense and the amounts deducted, to the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 1322.11 MEANS OF APPEAL

1322.11.1 Application for appeal. Any person directly affected by a decision of the Chief Code Official or a notice or order issued under this code shall have the right to appeal to the Property Maintenance Appeals Board (the "Board"), provided that a written application outlining the basis for appeal is filed with the Planning and Development Department 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. The appeal application shall include a fee in the amount established in the City of Kettering Schedule for Permits, Inspections, Certificates and Fees, the written basis for the appeal as indicated herein, and five (5) copies of the same. Should the Chief Code Official make a determination of indigence of appellant, the application fee may be waived.

1322.11.2 Membership. The Board shall consist of the following individuals or their designees: the City Manager, the City Engineer, and the Chief of Police. The City Manager shall designate a City of Kettering employee to serve as secretary to the Board. The secretary shall file a record of all proceedings in the Planning and Development Department.

1322.11.2.1 Chairperson. The Board shall annually select one of its members to serve as Chairperson.

1322.11.3 Hearing and jurisdiction. The Board shall have jurisdiction to hear appeals that are timely filed and are appeals from a decision of the Chief Code Official. For each timely filed appeal application the Board shall conduct a hearing within a reasonable time after the date the application is filed, however no such hearing shall begin later than sixty (60) days after the date of filing unless the appellant consents to such hearing date in writing.

1322.11.4 Notice and conduct of meeting. The procedure and conduct of board proceedings shall adhere to Robert's Rules of Order, unless otherwise provided for by written and board adopted rules of procedure. A quorum shall consist of a majority of members of the board membership.

1322.11.5 Postponed hearing. When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. Such a request constitutes a waiver of the time within which an appeal must be heard under 1322.11.3.

1322.11.6 Board decision. The Board shall uphold, modify, or reverse the decision of the Chief Code Official only by a concurring vote of a majority of those members present at the meeting during which the decision is made.

1322.11.6.1 Records and copies. The decision of the Board shall be recorded in the minutes of the board meeting. Copies shall be furnished to the appellant and to the Chief Code Official upon request. However, the Board may issue a written decision with findings of fact and conclusions of law.

1322.11.6.2 Administration. The Chief Code Official shall take immediate action in accordance with the decision of the Board.

1322.11.7 Appeals from Board decisions. Any decision of the Board may be appealed to a court of competent jurisdiction and is not appealable to Kettering City Council. The party appealing shall pay for all costs incurred in preparing the record for appeal. Unpaid costs shall be collected under Section 1322.06.8.

1322.11.8 Stays of enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board.

CHAPTER 1323
GENERAL REQUIREMENTS

SECTION 1323.01 GENERAL

1323.01.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment, exterior property, and premises.

1323.01.2 Responsibility. The owner of the premises shall maintain the structures and exterior property areas in compliance with these requirements. An owner 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 premises or dwelling unit are responsible for keeping in a clean, safe, and sanitary condition that portion of the premises, including any exterior property areas, which they occupy and control.

1323.01.3 Vacant structures and land. All vacant structures and premises thereof or vacant or undeveloped land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause blight or adversely affect the public health, safety, and welfare.

1323.01.4 Discontinuance of Utilities. Other than the legal occupant of the same residential dwelling unit or the provider of the utility or in the case of Imminent Danger, the Chief Code Official, no person shall cause any electric service, natural gas service, water service, or sanitary sewer service to be removed from or shut off from or discontinued in any residential dwelling unit that is presently legally occupied, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress or during and emergency as provided for in Section 1322.09.2.1.

SECTION 1323.02 EXTERIOR PROPERTY AREAS

1323.02.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition so as not to cause blight or adversely affect the public health, safety, and welfare and shall be kept free of the accumulation of junk, debris, trash, garbage, rubbish, yard debris, noxious or offensive materials, nuisances, and other such conditions.

1. Furniture, equipment, yard maintenance items, and other elements located on the exterior premises shall be designed and intended for outdoor use and shall be stored and maintained to a clean, neat, and orderly appearance and in a manner that is not conducive to creating a harborage for rodents or insects;

2. Except where may be permitted under the Zoning Code, vehicle and machinery parts and other similar items, whether new or used, are prohibited from storage outdoors on a premise;

3. The storage of firewood on exterior premises shall be:

    a) maintained to a neat and orderly appearance;

    b) stacked so as not to exceed the height of adjacent fencing and in no case shall exceed the maximum fence height for the applicable zoning district; and

    c) arranged to prohibit the creation of a rodent or insect harborage area.

Firewood storage shall be prohibited in any front yard or street side yard.

4. All premises, except for naturally wooded areas, shall be maintained free from the excessive accumulation or untended growth of underbrush, undergrowth, or other noxious vegetation which creates a harborage for rodents, insects, and other pests. Such growth within naturally wooded areas shall not impede visibility or use of public rights-of-way or easements intended for use by the general public as roadways, sidewalks, bikeways, or pathways and shall maintain a minimum cleared distance of eight feet (8') from the right-of-way;

5. Temporary, seasonal, or permanent stacked storage of equipment, furniture, materials, and other similar items is prohibited in any front yard or street side yard;

6. Compost areas shall be maintained pursuant to accepted standards for such uses and shall not be a storage area for large limbs, untended yard debris, and trash. Such uses are prohibited in any front yard or street side yard.

Exceptions:

1. Temporary construction trailers and temporary storage units may be permitted in accordance with the Kettering Zoning Code;

2. Temporary storage of building material in association with an active permit. Such items must be neatly stacked and weather protected, and shall not be placed within setback areas;

3. Dead and fallen trees within naturally wooded lots and areas as described in Section 1323.02.4.

1323.02.2 Grading and drainage. All premises shall be graded and maintained to prevent the accumulation of foul stagnant water thereon, or within any structure located thereon. Existing retention areas and reservoirs shall be maintained pursuant to Kettering Codified Ordinances, Chapter 1701, Storm Water Runoff Code.

1323.02.2.1 Storm water. No storm water, including discharge from sump pumps or other re-routed drainage, shall be discharged so as to accumulate and create a public nuisance or an unsafe condition or allow erosion on the subject property or any abutting property.

1323.02.2.2 Ground cover. All premises shall be provided with grass and/or other appropriate ground cover or landscaping material so as to assure absorption of rainfall, avoid rapid runoff of surface water, and prevent erosion of soil.

1323.02.3 Walkways and driveways. All walkways, stairs, driveways, parking spaces, and other similar areas covered by this code shall be kept in a proper state of repair, and maintained free from hazardous conditions.

1323.02.4 Vegetation. All vegetation, including trees, bushes, shrubs, and portions thereof, shall have no evident signs of neglect. Vegetation shall be trimmed and properly maintained to a neat and orderly appearance. Any vegetation removed as necessitated by this section shall be replaced as required by the Kettering Zoning Code.

1. All dead trees, bushes, shrubs, or portions thereof, shall be removed;

2. Dead or fallen trees located within naturally wooded lots that do not pose a threat to public health, safety, or welfare and do not negatively impact adjacent properties, including rights of way, are exempt from the requirement for removal;

3. All vegetation, including trees, bushes, and shrubs, which are infected with decay, disease, insect infestation, or are otherwise considered dangerous to other plant materials, shall be removed or appropriately treated to remove the disease or infestation;

4. "High risk" trees shall be removed;

5. Gardens shall be maintained pursuant to accepted standards;

6. Flower beds shall be maintained free of tall grass and weeds in excess of 8" tall;

7. Vegetation growing through control joints, breaks, and cracks within paved areas, such as walkways, driveways, parking lots, and adjacent public sidewalk, shall be considered as weeds and shall be removed;

8. Unobstructed access to fire hydrants shall be maintained at all times. A 3-foot (914mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

1323.02.4.1 Tall grass and weeds. All premises and exterior property areas shall be maintained free from tall grass and weeds in excess of eight inches (8") in height or length. All noxious weeds shall be

prohibited. The term weeds shall not include trees or shrubs, cultivated flowers, ornamental grasses, or crops planted and cultivated for sale or in connection with a legally authorized agricultural business. Non-compliance with this section may also be subject to provisions of Section 1322.06. Vegetation growing through control joints, breaks, and cracks within paved areas, such as walkways, driveways, parking lots, and adjacent public sidewalk, shall be considered as weeds and shall be removed. Weeds determined to be a nuisance are subject to the provisions of Section 1328.09.

1323.02.4.2 Notice of Violation. When the Chief Code Official determines a premises or exterior property has vegetation in violation of this Code, the Chief Code Official shall provide notice of such violation to the owner, tenant, user, or other responsible person. Notice shall be in the form provided for in Section 1322.07.2. Service shall be provided by:

1. Regular, U.S., first-class mail postage prepaid, to the owner's last known place of residence, plus posting such notice in a conspicuous place in or about the subject premises or property, or

2. Service pursuant to either Subsection 1 or Subsection 2 of Section 1322.07.3.

1323.02.4.3 Removal of weeds. The owner, tenant, or other responsible person to whom a notice of violation of Section 1323.02.4.1 has been served, shall, within ten (10) days of the date of service of such notice, cut and remove such vegetation causing the violation. In the event the owner, tenant, or user of property or other responsible person fails to comply with a notice of violation or order of the Chief Code Official within the time prescribed, then the Chief Code Official is hereby authorized to cause to be cut and removed the vegetation causing the violation such that the premises or property is brought into compliance.

1323.02.4.4 Removal of High Risk Trees. The owner, tenant, user of property, or other responsible person to whom a notice of violation of Section 1323.02.4 for High Risk Trees has been served, shall remove the subject tree in the shortest time possible as determined by the Chief Code Official. The tree and trunk shall be removed from the property such that any remaining portion shall be no more than three inches (3") above the adjacent grade or as may be approved by the Chief Code Official.

In the event the owner, tenant, user of property, or other responsible person fails to comply with an order of the Chief Code Official or a notice of violation within the time prescribed, then the Chief Code Official is hereby authorized to cause to be cut and removed the tree(s) causing the violation.

1323.02.4.5 Costs. In the event the City of Kettering causes the cutting and removal of vegetation then the Chief Code Official shall prepare a statement of all costs, which shall include such administrative costs and expenses as established in the Kettering Schedule for Fees, incurred by the City in connection with such cutting and removal, and shall cause to be sent, via certified, pre-posted (green card return), U.S. mail, a copy of such statement to the owner of the property or premises in which a demand is made for payment of the statement amount within thirty (30) days from the date of the statement, and shall also post a copy of the statement and demand in a conspicuous place on the subject property. If service of such statement by certified mail is unsuccessful, then a copy of such statement shall be sent to the owner by regular mail. If the owner fails to make payment of the demand amount within the thirty (30) day time period, the Chief Code Official is then authorized to cause the necessary action to be taken to certify such amount to the Montgomery or Greene County Auditor for collection as in taxes and assessments, or to take action necessary for collection by a civil proceeding in a court of competent jurisdiction. Collection of the City's costs and expenses for cutting and removal shall be in addition to any penalty that may be imposed for violation of the provisions of this Code.

1323.02.5 Trimming of Trees, Shrubbery. The owner of every lot or parcel of land within the corporate limits upon which a tree, plant, bush, or shrubbery stands with any part thereof upon or overhanging a public way or sidewalk shall conform to the regulations herein provided.

1. The owner shall trim or cause the tree, plant, bush, or shrubbery to be trimmed so that a clear height of eight (8) feet between the lowest branches of the same and street or sidewalk is maintained;

2. The owner shall cut down and remove any tree, plant, bush, or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb, or property of persons, drivers of any vehicles, or pedestrians using the street or sidewalk.

1323.02.5.1 Notice of Violation. Notice shall be in the form provided for in Section 1322.07.2 and shall be served upon the owner of the lot or parcels of land by personal service or by certified U.S. mail. If service of such notice by certified US mail is not perfected after ten (10) days of the date of the initial notice, then a second notice shall be made by posting a copy of the second notice in a conspicuous place upon the lot or parcel of land and such posting shall constitute effective service.

1323.02.5.2 Removal. The owner, tenant or other responsible person to whom a notice of violation of Section 1323.02.5 has been served, shall, within ten (10) days of confirmation of service of the first notice or within ten (10) days of the date of the second notice, cut and remove such vegetation causing the violation; otherwise, the Chief Code Official is hereby authorized to cause such vegetation to be

trimmed or cut down and removed such that the premises or property is brought into compliance with these regulations and assess the cost thereof against the owner of such lot or parcel of land the in same manner as in Section 1323.02.4.5.

1323.02.6 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation and free from conditions that are favorable for the creation of such environments. Any such conditions shall be promptly corrected upon notice. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

1323.02.7 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.

1323.02.8 Accessory structures. All accessory structures, including, but not limited to, detached garages and carports, walls, fences, pools, signs, and the like shall be maintained structurally sound and in good repair.

1323.02.9 Vehicles. Except as provided for in other City of Kettering regulations, no inoperative or unlicensed vehicle shall be parked, kept, or stored outdoors on any premises and while stored outdoors, no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. For the purposes of this section major repair means work which requires any internal parts including; the engine drive train or its parts, transmission assembly, exhaust system or other similar components to be removed from or reinstalled in the vehicle. For the purposes of this section body work means any activity involving the use of power operated tools or machinery, application of paint and epoxy, or other similar application used to effect modifications to the exterior or interior of a vehicle. For the purposes of this section items stored in a carport are considered stored outdoors/on exterior premises.

1323.02.9.1 Vehicle and machinery. Except where may be permitted in the zoning ordinance, all exterior premises within the city shall be maintained free of the existence and maintenance of a storage area, junkyard or dumping ground for wrecked or dismantled vehicles and machinery.

1323.02.9.2 Vehicle covers. Any vehicle cover used for vehicles parked or stored outdoors must be in good condition, free from deterioration, and properly secured.

1323.02.9.3 Vehicles as storage containers. No vehicle shall be used as a place for inappropriate storage of items. Such vehicles shall be determined to be a junk vehicle and shall not be stored outdoors.

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 that is designed and approved for such purposes per Kettering Building Code.

1323.02.10 Defacement of property. No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of any structure, building, fence, or wall 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 surfaces to an approved state of maintenance and repair.

1323.02.11 Ground surface hazards. Holes, cracks, excavations, breaks, projections, and obstructions that are located outdoors on a premises and pose a hazard to persons using the premises shall be repaired to a safe, sound condition.

SECTION 1323.03 SWIMMING POOLS, SPAS, AND HOT TUBS

1323.03.1 Swimming pools. All swimming pools, spas, hot tubs, and covers used for swimming pools, spas, and hot tubs shall be maintained in a clean, safe, and sanitary condition, and in good repair.

1323.03.2 Enclosures. Enclosures required by the Kettering Zoning Code, including gates and doors in such barriers, shall be maintained pursuant to standards of the Zoning Code and Section 1323.04. Gates that are required to be self-closing or self-latching shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches from the gatepost. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier. Pool covers approved by the zoning code as meeting the enclosure requirement shall be maintained free from defects.

Exception: Spas or hot tubs with a safety cover that complies with the Kettering Building Code standards (ASTM F 1346) shall be exempt from the enclosure provisions of this section.

SECTION 1323.04 EXTERIOR STRUCTURES

1323.04.1 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. All components of a structure

shall be maintained in good repair and structurally sound. Conditions of deterioration that cause the component or system to be beyond their limit state shall be determined as unsafe and shall be repaired, replaced, or removed in a manner that complies with the Kettering Building and Zoning Codes unless the condition is substantiated otherwise by an approved method. Boarding and securing of openings or damaged exterior materials is a temporary safeguard measure and shall not be considered in maintenance in good repair.

1323.04.2 Protective treatment. All exterior surfaces, including, but not limited to, roofs, doors, door and window frames, cornices, porches, trim, balconies, decks, rails, guards, 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 unless such surfaces are designed and intended for stabilization by oxidation.

1323.04.3 Premises identification. Buildings shall have address numbers placed in a position to be plainly legible and visible from the right-of-way, including the street or road fronting the property and any abutting alley.

1323.04.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.

1323.04.5 Foundation walls. All foundation walls shall be firmly supported, 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.

1323.04.6 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.

1323.04.7 Roofs and drainage. Roofing and roof framing shall be in good repair with no signs of deterioration; signs of deterioration shall include the use of tarps covering any portion of the roof. Roofing and roof flashing shall be sound, tight, and have no defects that admit rain. Roof drainage shall be maintained in good repair and free from obstruction. Such drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure and shall include drains, gutters, and downspouts, or other acceptable method of discharging roof water to the ground surface, so as to drain away from footings and foundations in a manner that does not create a hazard or a public nuisance to subject property or adjacent properties.

1323.04.8 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.

1323.04.9 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.

1323.04.10 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.

1323.04.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, in good repair, and properly anchored. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of protective materials, such as paint or similar surface treatment.

1323.04.12 Handrails and guardrails. Every existing handrail and guardrail shall be maintained in good condition, firmly anchored, and capable of supporting normally imposed loads. Existing guardrails installed at walking surfaces that are thirty (30) inches or more above adjacent grade and existing handrails at stairways of four or more risers shall not be permanently removed.

1323.04.13 Window, skylight, and door frames. Every window, skylight, door, and frame shall be kept in sound condition, good repair and weather tight.

1323.04.13.1 Glazing. All glazing material shall be maintained free from cracks, breaks, and holes.

1323.04.13.2 Openable windows. Every window, other than fixed windows, shall be easily openable and capable of being held in position by installed window hardware.

1323.04.13.3 Joints All joints between the building envelope and the perimeter of windows, doors, and skylights shall be maintained in good repair, weather resistant, and water tight. All joints between abutting building envelope materials shall be maintained in good repair, weather resistant, and water tight.

1323.04.14 Insect screens. During non-winter months, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch, and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

1323.04.15 Doors. All exterior doors, door assemblies, hardware, and intercom systems shall be maintained in good condition. Locks at all entrances including dwelling units and sleeping units shall tightly secure the door. All doors shall fit reasonably well within frames and shall be properly and securely attached to jambs, headers, or tracks as intended by the manufacturer of the attachment hardware.

1323.04.16 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.

1323.04.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows, or other approved protection against the entry of rodents.

1323.04.18 Building security. Doors, windows, or hatchways for dwelling units shall be provided with devices designed to provide security for the occupants and the property within.

> **1323.04.18.1 Doors**. Doors providing access to a dwelling unit that is rented, leased, or let shall be equipped with deadbolt locks designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort. 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.
>
> **1323.04.18.2 Windows**. Operable windows that provide access to a dwelling unit that is rented, leased, or let shall be equipped with an operable window sash locking device.
>
> **1323.04.18.3 Basement hatchways**. Basement hatchways that provide access to a dwelling unit that is rented, leased, or let shall be equipped with devices that secure the units from unauthorized entry.

1323.04.19 Gates. All exterior gates, gate assemblies, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 1323.05 INTERIOR STRUCTURE

1323.05.1 General. The interior of a structure and the 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 hotel, a dormitory, two or more dwelling units, or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

> **1323.05.1.1 Unsafe conditions**. All components of a structure shall be maintained in good repair and structurally sound. Conditions of deterioration that cause the component or system to be beyond their limit state, as example: dislodged floor joists or handrails; shall be determined as unsafe and shall be repaired, replaced, or removed in a manner that complies with the Kettering Building Code and Ohio Fire Code unless condition is substantiated otherwise by an approved method.

1323.05.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

1323.05.3 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.

1323.05.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck, or other walking surface shall be maintained in sound condition, good repair, and free from deterioration.

1323.05.5 Handrails and guardrails. Every handrail and guardrail shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

1323.05.6 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, hinges, or tracks as intended by the manufacturer of the attachment hardware.

SECTION 1323.06 RUBBISH AND GARBAGE

1323.06.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish and garbage. Garbage, rubbish, and bulk items shall not be allowed to accumulate and must be removed from the premises in an approved manner on a weekly basis. Loose storage of materials, other than bulk items, is not permitted. Any accumulation or storage contrary to the provisions of this chapter is a nuisance and is prohibited.

1323.06.2 Disposal of rubbish and garbage. The owner or operator/occupant of every establishment producing rubbish and garbage shall provide and at all times cause to be utilized, approved storage containers for the storage of such materials until they are removed from the premises for disposal. Every occupant of a structure shall dispose of all rubbish and garbage in a clean and sanitary manner by placing such material in approved storage containers. No person shall place any garbage or rubbish in any street, alley, or other public place or on the property of another.

1323.06.2.1 Storage Containers. Such containers shall be leak-proof and constructed of metal, rigid plastic or similar rigid material with close-fitting covers and shall be kept in a clean, neat, and sanitary condition at all times. Covers must be kept closed until disposal from premises in order to deter access by pests and vermin. Bulk items need not be kept in such containers, but must be stored indoors until such time as they are to be removed from the property. Storage containers at residential facilities are to be stored on the property per the City's zoning code requirements until scheduled pick up by the City approved hauler. Within 24 hours of scheduled pick up such containers shall be placed in areas designated by the City for pick up and must be removed from such areas no later than 24 hours after pick up.

1323.06.2.2 Storage facilities. The owner or operator of every occupied non-residential facility and of every multi-unit residential establishment of greater than four dwelling units shall provide, and at all times cause to be utilized, an area designated on site for the storage of containers. Such storage facilities shall be maintained in a clean and sanitary manner and shall meet all requirements of the Zoning Code for such areas.

1323.06.2.3 Refrigerators. Refrigerators and similar equipment not in operation shall not be abandoned or stored on exterior premises. Refrigerators and similar equipment shall be disposed of in an approved manner and shall not be placed on exterior premises for removal without first removing the doors.

SECTION 1323.07 PEST ELIMINATION

1323.07.1 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 pest elimination, proper precautions shall be taken to prevent re-infestation.

1323.07.2 Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure or any portion thereof.

1323.07.3 Single occupant. The occupant of a single-unit dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

1323.07.4 Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property.

1. The occupant of each dwelling unit shall be responsible for the continued rodent and pest-free condition of the portion of the structure under their control except where infestations are caused by defects in the structure or infestation has spread from adjacent units. In such cases the owner shall be responsible for pest elimination.

1323.07.5 Bed bug infestation. The determination of a bed bug infestation must be confirmed by a professionally licensed exterminator.

1. Elimination of an infestation of bed bugs within any unit in a multi-tenant structure shall be the joint responsibility of the occupant and owner. As part of the elimination process the owner shall ensure an infestation has not spread to adjacent units;

2. Control of bed bugs shall be deemed complete upon written determination from a professional exterminator that there has been no evidence of bed bug activity for thirty (30) days after the last application of any treatment;

3. Re-infestation within a previously treated area shall follow the same process as initial infestations.

CHAPTER 1324
LIGHT, VENTILATION, AND OCCUPANCY REQUIREMENTS

SECTION 1324.01 GENERAL

1324.01.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation, and space for occupying a structure.

1324.01.2 Responsibility. The owner of the structure shall provide and maintain light, ventilation, and space conditions in compliance with these requirements. An owner shall not occupy as owner-occupant, or permit another person to occupy, any structures that do not comply with the requirements of this chapter.

1324.01.3 Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Kettering Building Code shall be permitted.

SECTION 1324.02 LIGHT

1324.02.1 Habitable spaces. Required glazed openings shall open directly onto a street or public alley, or a yard or court located on the same lot as the building. All habitable rooms shall have an aggregate glazing area of not less than 8 percent of the floor area of such room.

Exception: Glazed openings need not be installed in rooms where the opening is not a required means of egress and where an approved mechanical system and a means of artificial light meeting Kettering Building Code requirements is provided.

1324.02.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one and two-unit dwellings, shall be lighted at all times with at least a 60-watt standard light bulb for each 200 square feet floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, all stairways and means of egress, including exterior means of egress, shall be illuminated with a minimum of 1 foot-candle at floors, landings, and treads at all times the building space served by stairways and the means of egress is occupied.

1324.02.3 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.

SECTION 1324.03 VENTILATION

1324.03.1 Habitable spaces. Every habitable space shall have at least one openable window. The minimum openable area to the outdoors shall be 4 percent of the floor area being ventilated. Natural ventilation shall be through windows, doors, or other approved openings to the outdoor air and such openings shall be readily controllable by the building occupants.

Exception: Windows need not be openable where the opening is not a required means of egress and an approved mechanical system meeting Kettering Building Codes requirements is provided. Use of sunrooms and covered patio areas shall be permitted for natural ventilation if in excess of 40 percent of the exterior sunroom walls are open, or are enclosed only by insect screening.

1324.03.2 Bathrooms and toilet rooms. Every bathroom shall have at least one openable window, except that a window shall not be required in such spaces equipped with artificial light and a mechanical ventilation system meeting Kettering Building Code requirements. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge directly to the outdoors.

1324.03.3 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.

1324.03.4 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

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

SECTION 1324.04 OCCUPANCY LIMITATIONS

1324.04.1 Room area. Every dwelling unit shall contain at least one habitable room that shall have not less than120 square feet of gross floor area. Other habitable rooms shall have a floor area of not less than 70 square feet. Habitable areas must meet the requirements of Sections 1324.04.4 through 1324.04.7.

1324.04.1.1 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 1324.04.1 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

1324.04.2 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum occupancy area requirements of Table 1324.04.2. If any room used for residential purposes is overcrowded, the Chief Code Official may order the number of persons sleeping or living in said room to be reduced.

TABLE 1324.04.2 MINIMUM OCCUPANCY AREA REQUIREMENTS

Space	Minimum Square Foot Area		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room [a, b]	120	120	150
Dining room [a, b]	No	70	100
Bedrooms	Shall comply with Section 1324.04.3		

a. See Section 1324.04.1.2 for combined living room/dining room spaces;

b. See Section 1324.04.2.1 for limitations on determining the minimum occupancy area for sleeping purposes.

1324.04.2.1 Sleeping area. The minimum occupancy limits required by Table 1324.04.2 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 1324.04.3.

1324.04.3 Bedroom requirements. Every bedroom shall comply with the requirements of Sections 1324.04.3.1 through 1324.04.3.5.

1324.04.3.1 Area for sleeping purposes. Every bedroom occupied by one (1) person shall contain at least seventy (70) square feet of floor area, and every bedroom occupied by more than one (1) person shall contain at least forty (40) square feet of floor area for each occupant thereof.

1324.04.3.2 Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two (2) bedrooms.

1324.04.3.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

1324.04.3.4 Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.

1324.04.3.5 Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height, and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 1325; the heating facilities and electrical receptacle requirements of Chapter 1326; and the smoke detector and emergency escape requirements of Chapter 1327.

1324.04.4 Minimum room dimensions. Habitable rooms shall be a minimum of 7 feet in any plan dimension.

1324.04.5 Minimum ceiling heights. Habitable spaces, hallways, laundry areas, bathrooms, toilet rooms, and portions of basements containing these spaces shall have a minimum clear ceiling height of 7 feet.

1324.04.6 Height effect on room area. Portions of a room with a sloped ceiling measuring less than 5 feet or a furred ceiling measuring less than 7 feet from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room.

1324.04.7 Basements. Habitable spaces in existing basements shall be permitted to have ceiling heights of not less than 6 feet 8 inches. Obstructions (e.g. beams, girders, ductwork) may project to within 6 feet 4 inches of the finished floor.

1324.04.8 Privacy. Dwelling units, hotel units, and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

1324.04.9 Maximum Occupancy of non-residential premises. No owner or person in control shall permit any non-residential premises to be occupied in excess of the maximum number of occupants allowed for

said structure or premises allowed by the certificate of occupancy for the premises as approved by the Chief Building Official.

1324.04.10 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.

1324.04.11 Legal Conformity. No space in a building or structure shall be occupied as habitable space unless it has been legally converted and approved by the Chief Building Official for use as habitable space.

CHAPTER 1325
PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION 1325.01 GENERAL

1325.01.1 Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities, and fixtures to be provided.

1325.01.2 Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements and Section 1322.02.2. An owner 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.

SECTION 1325.02 REQUIRED FACILITIES

1325.02.1 Dwelling units. Every dwelling unit shall have its own separate toilet facilities and kitchen area. Toilet facilities shall be provided with a bathtub or shower, a lavatory, and a water closet. The kitchen area shall be provided with a kitchen sink. All fixtures shall be maintained in a sanitary, safe working condition. A kitchen sink shall not be used as a substitute for the required lavatory.

1325.02.2 Employees' facilities. Employees shall be provided with toilet facilities in all occupancies and may be separate from or combined with public toilet facilities. A minimum of one water closet and one lavatory shall be available to employees. Drinking facilities are not required for occupant loads of 15 or fewer.

> **1325.02.2.1 Drinking facilities**. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler, or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

1325.02.3 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary, and working condition. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

SECTION 1325.03 TOILET ROOMS

1325.03.1 Privacy. Toilet rooms and bathrooms shall provide privacy. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms.

1325.03.2 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.

1325.03.3 Bathtub and shower spaces. Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a non-absorbent surface and such surfaces shall extend to a height of not less than 6 feet above the floor.

SECTION 1325.04 PLUMBING SYSTEMS AND FIXTURES

1325.04.1 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.

1325.04.2 Fixture clearances. Plumbing fixtures shall have a minimum of 21 inches clear in front of the fixture.

1325.04.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration, damage, or for similar reasons, the Chief Code Official shall require the defects to be corrected to eliminate the hazard.

SECTION 1325.05 WATER SYSTEM

1325.05.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to a public water system. All kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water.

1325.05.2 Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

1325.05.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

1325.05.4 Water heating facilities. Water heating facilities shall be properly installed, maintained, and provide an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower, and laundry facility at a minimum temperature of 110°F.

SECTION 1325.06 SANITARY DRAINAGE SYSTEM

1325.06.1 General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

1325.06.2 Maintenance. Every plumbing stack, vent, waste, and sewer line shall function properly and be kept free from obstructions, leaks, and defects.

1325.06.3 Grease interceptors. Where required, interceptors and separators shall be provided to prevent the discharge of oil, grease, sand, and other substances harmful or hazardous to the public sewer, the approved private sewage system, or the sewage treatment plant or processes and shall be maintained to operate as intended. Grease interceptors shall comply with the requirements of the Ohio Plumbing Code.

SECTION 1325.07 STORM DRAINAGE

1325.07.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall flow away from buildings and shall not be discharged in a manner to allow standing water, cause erosion, or create a public nuisance.

CHAPTER 1326
MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 1326.01 GENERAL

1326.01.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

1326.01.2 Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements and Section 1322.02.2. 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.

SECTION 1326.02 HEATING FACILITIES

1326.02.1 Facilities required. Heating facilities shall be provided in structures as required by this section. Fuel fired appliances shall not be located in, or obtain combustion air from, sleeping rooms, bathrooms, toilet rooms, storage closets, or surgical rooms.

1326.02.2 Residential occupancies. Dwellings shall be provided with facilities capable of heating all habitable rooms, bathrooms, and toilet rooms. Cooking appliances shall not be used, nor shall the installation of one or more portable space heaters be used to achieve compliance with this section.

1326.02.3 Heat supply. Every owner and operator of any building who rents, leases, or lets one or more dwelling units or sleeping units shall supply heat sufficient to maintain a minimum temperature of 68° F in all habitable rooms, bathrooms, and toilet rooms.

1326.02.4 Occupied work spaces. Indoor occupied work spaces shall be supplied with heat sufficient to maintain a minimum temperature of 65°F.

Exceptions:

1. Processing, storage, and operation areas that require cooling or special temperature conditions;

2. Areas in which persons are primarily engaged in vigorous physical activities.

1326.02.5 Room temperature measurement. The required room temperatures shall be measured 3 feet above the floor near the center of the room and 2 feet inward from the center of each exterior wall.

SECTION 1326.03 MECHANICAL EQUIPMENT

1326.03.1 Mechanical appliances. All mechanical appliances, equipment, 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.

1326.03.1.1 Cooking and heating appliances. All cooking, heating, and water heating equipment, components and accessories in every cooking, heating, and water heating device shall be maintained free from leaks and obstructions.

1326.03.2 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 by the manufacturer for unvented operation.

1326.03.3 Clearances. All required clearances to combustible materials shall be maintained.

1326.03.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

1326.03.5 Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

SECTION 1326.04 ELECTRICAL FACILITIES

1326.04.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 1326.05.

1326.04.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the Kettering Building Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

1326.04.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of illegal installation, inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Chief Code Official shall require the defects to be corrected to eliminate the hazard.

SECTION 1326.05 ELECTRICAL EQUIPMENT

1326.05.1 Installation. All electrical equipment, wiring, and appliances shall be properly installed and maintained in a safe and approved manner.

1326.05.2 Receptacles. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

1326.05.3 Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room, and furnace room shall contain at least one electric luminaire. Pool and spa luminaries over 15V shall have ground fault circuit interrupter protection.

1326.05.4 Wiring. Flexible cords shall not be used for permanent wiring, or to supply electric service to adjacent facilities, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

SECTION 1326.06 ELEVATORS, ESCALATORS AND DUMBWAITERS

1326.06.1 General. Elevators, dumbwaiters, and escalators shall be maintained in compliance with applicable building codes and standards.

1326.06.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

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

SECTION 1326.07 DUCT SYSTEMS

1326.07.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

CHAPTER 1327
FIRE SAFETY REQUIREMENTS

SECTION 1327.01 GENERAL

1327.01.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided. No provision of this chapter shall supersede any provision of the Kettering Building Code and Ohio Fire Code.

1327.01.2 Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements and Section 1322.02.2. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

SECTION 1327.02 REQUIRED MEANS OF EGRESS

1327.02.1 General. A safe, continuous, and unobstructed path of travel shall be provided along any required means of egress system of a building or structure to the public way. Means of egress shall comply with the Kettering Building Code and Ohio Fire Code.

1327.02.2 Width. Obstructions shall not be stored within the required width of a means of egress.

1327.02.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort, except where the door hardware conforms to that permitted by the Kettering Building Code.

1327.02.4 Emergency escape and rescue openings. Every sleeping room shall have at least one emergency escape and rescue opening. Required emergency escape and rescue openings shall be maintained in accordance with the building or fire code in effect at the time of construction. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools.

1327.02.5 Means of egress illumination. The means of egress, including the exit discharge, shall be illuminated at all times the building the space served by the means of egress is occupied, except in uses where constant illumination would interfere with the use of the space

SECTION 1327.03 FIRE-RESISTANCE RATINGS

1327.03.1 Fire-resistance-rated assemblies. Required fire-resistance rating of fire-resistance-rated construction shall be maintained.

1327.03.2 Opening protectives. Required opening protectives shall be maintained in an operative condition. Fire door assemblies shall not be modified. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable and shall be maintained to prevent the passage of smoke. Hold-open devices and automatic door closers, where provided, shall be maintained.

SECTION 1327.04 FIRE PROTECTION SYSTEMS

1327.04.1 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 Ohio Fire Code and shall be replaced or repaired when defective.

1327.04.1.1 Automatic sprinkler systems. Inspection, testing, and maintenance of automatic sprinkler systems shall be in accordance with the Kettering Building Code and Ohio Fire Code.

1327.04.1.2 Fire extinguishers. All portable fire extinguishers shall be of approved type, visible, provided with ready access thereto, and maintained in an efficient and safe operating conditions.

1327.04.2 Smoke and carbon monoxide alarms. Single or multiple-station smoke alarms and carbon monoxide alarms shall be installed and maintained in Group R or I-1 occupancies, regardless of occupant load at all of the following locations:

1. Smoke alarms and carbon monoxide alarms:
    a. A photoelectric smoke alarm and a carbon monoxide alarm shall be provided outside of each separate sleeping area in the immediate vicinity of bedrooms.

2. Smoke alarms:
    a. In each room used for sleeping purposes.

    b. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

1327.04.3 Power source. 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.

CHAPTER 1328
NUISANCE ABATEMENT

SECTION 1328.01 PUBLIC NUISANCE.

1328.01.1 The following conditions or defects upon any premises or lot shall be deemed a public nuisance when they endanger the health, safety, welfare, life, or limb of the public, or causes any hurt, harm, inconvenience, damage, or injury to any person by reason of any one or more of the following conditions in which such premises or lot is permitted to be or remain:

1. Whenever a lot, yard, fence, wall, deck, shed, garage, carport, building, structure, sign, tree, pole, excavation, hole, pit, basement, cellar, well, cistern, truck dock, sidewalk, or any portion of the aforesaid because of poor maintenance, accumulation of litter, or improperly stored vehicles become a danger to the public, or a deteriorating and blighting influence on nearby properties, or is a detriment to the general health or safety of the community;

2. Whenever a structure is determined to be a fire hazard;

3. Whenever a structure is damaged by fire, wind, earthquake, flood, or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and no longer meets the minimum structural load requirements of the Kettering Building Code for new buildings of similar structure, purpose, or location;

4. Whenever a structure is likely to cause sickness or disease because of inadequate maintenance, light, air, or sanitary facilities;

5. Whenever a structure is determined to be unsafe, unsanitary, or unfit for human occupancy or use;

6. Whenever a structure by reason of continued vacancy results in lack of reasonable or adequate maintenance thereby causing deterioration of the property and creating a blighting influence by depreciating the enjoyment and use of properties in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated;

7. Whenever a structure is dilapidated or deteriorated to such an extent that it becomes an attractive nuisance to children, a harborage for vagrants, or illegal activities, or because of its condition enables persons to resort thereto for the purpose of committing unlawful or immoral acts;

8. Whenever a structure is in danger of collapse or partial collapse due to faulty construction, or the removal, movement, or instability of any portion of the structure or ground necessary for the purpose of supporting such building, or any cause;

9. Whenever a structure is in danger of any portion, member, or appurtenance thereof, due to insufficient strength or stability, or is so poorly anchored, attached, or fastened in place that it is incapable of resisting applied loads of that specified in the Kettering Building Code for new

buildings of similar design and is likely to fall, or to become detached or dislodged, or to collapse for any reason and thereby injure persons or damage property;

10. Whenever any portion of a structure remains on a site after the partial demolition or destruction of such structure and is left incomplete or abandoned for a period in excess of six (6) months so as to constitute an attractive nuisance or hazard to the general public;

11. Whenever a structure remains vacant and/or abandoned for a period in excess of six (6) months and having one or more conditions which violate the provisions of this Code;

12. Whenever a nuisance on or in a structure, lot, or premises has been abated by the City by securing the structure on more than two (2) occasions or mowing on more than three (3) occasions within a twelve (12) month period;

13. Whenever a structure meets that which is defined as a public nuisance in ORC 3767.41, which are incorporated herein by reference and made part thereof;

14. Whenever an inoperable, junk, or unregistered vehicle is found, on any lot or premises, abandoned in the open without the needed protection, care, or maintenance.

1328.01.2

The following conditions shall constitute a public nuisance:

(1) That which is defined as a nuisance in ORC § 3767.01(c), which is incorporated herein by reference and made a part hereof;

(2) Premises or real estate, including vacant land, on which a felony violation of Chapter 2925 or 3719 of the ORC occurs, regardless of whether there has been a conviction for said violation.

SECTION 1328.02 NUISANCE DETERMINATION

1328.02.1 Whenever there is reasonable basis to believe that a public nuisance exists, the Chief Code Official, or their designee, shall inspect or cause the inspection of the property or premises upon which the public nuisance is believed to exist. The Fire Marshal, Chief of Police, Chief Building Official, Zoning Administrator, or their designee, upon request of the Chief Code Official, may inspect or cause the inspection of premises on which a public nuisance is believed to exist. All findings and recommendations with respect to the existence of the public nuisance shall be documented photographically and in writing and such documentation shall be filed with the Chief Code Official.

SECTION 1328.03 NOTICE TO ABATE; CONTENT AND PROHIBITIONS

1328.03.1 General. If, upon inspection, it is determined that a public nuisance exists and requires abatement, the Chief Code Official, or their designee, shall send or deliver a written notice to abate such public nuisance to the owner or occupant, or both, who caused or permitted the public nuisance to exist. The public nuisance order, once issued by the Chief Code Official, or their designee, is against the property and runs with the subject property, notwithstanding any change(s) in the titled ownership or occupancy of the property.

1328.03.2 Content of notice to abate. Such notice shall include:

1. A description of the property sufficient for identification;

2. The findings of the Chief Code Official, or their designee, involving the nature of the violation and the relevant code section with respect to the existence of the public nuisance;

3. Information advising of the right to appeal;

4. Information advising of the right of the City to abate said nuisance upon non-compliance;

5. The requirement of the owner or occupant to abate the public nuisance by the removal of the condition(s) that caused the public nuisance either:

   a. Within seventy two (72) hours for emergency abatement, or

   b. Within such time frame as the Chief Code Official may deem necessary.

1328.03.3 Prohibitions.

1. No owner or occupant of a premises shall permit the existence of a public nuisance to occur or continue on such premises;

2. No owner and/or occupant of a premises shall fail to comply with any notice to abate a public nuisance;

3. No owner, occupant, or other person shall obstruct or interfere with the enforcement of such notice.

1328.03.4 Transfer of ownership. It shall be unlawful for the owner of any lot, premises, dwelling unit, or structure to whom a notice to abate has been served to sell, transfer, mortgage, or otherwise dispose of such lot, premises, dwelling unit, or structure to another until the provisions of the notice to abate has been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of such notice to abate and shall furnish to the Chief Code Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such notice and fully accepting the responsibility without condition for making the corrections or repairs required by the notice.

1328.03.5 Duty to vacate premises.

1328.03.5.1 Within 15 days after it has been finally determined that a public nuisance, as defined in Section 1328.01.02, exists:

(1) All persons responsible therefor shall vacate the premises;

(2) The owner shall initiate such legal action as is necessary to vacate all persons responsible therefor from the premises, and shall diligently prosecute such legal action to a conclusion.

1328.03.5.2 After the last person responsible for the public nuisance has vacated the premises, the owner shall keep such premises vacant for a period of 365 days, unless the owner and every person responsible for the nuisance who wishes to occupy the premises, each file a bond naming the City of Kettering, Ohio as obligee, with sureties to be approved by the Chief Code Official. The bond shall be in the amount of the value of the property, as determined by the Chief Code Official. The Chief Code Official may make such determination on the basis of the total market value of the land and improvements, as shown on the Montgomery County auditor's current valuation record, or on the basis of any other reliable evidence. The bond shall be conditioned that such owner and other persons responsible for the nuisance will immediately abate such public nuisance and prevent the same from being established or kept during the 365-day period. The bond shall be posted for a full 365 days.

1328.03.06 Appeal hearing for public nuisance structures

1328.03.06.1 The owner or other responsible person named on a notice to abate may within 10 days after receipt of notice or within 10 days after any other determination has been made by the Chief Code Official pursuant to this Chapter, make a demand in writing to the Chief Code Official for a hearing on any legal or factual issue relating to the nuisance notice, or any question set forth in Section 1328.03.06.2.2(4), or on any determination made by the Chief Code Official pursuant to the authority granted by this Chapter. The demand shall include the correct mailing address of the owner or person representing the owner and shall be accompanied by the appeal fee set in the City of Kettering's Schedule for Permits, Inspections, Certificates, and Fees. The hearing shall be scheduled within a reasonable time, not to exceed 60 days following receipt of the written demand.

1328.03.06.2 The hearing shall be conducted by the Property Maintenance Appeals Board.

1328.03.06.2.1 In an appeal concerning public nuisances defined in Section 1328.01.1, the Board may vote to:

(1) Sustain the finding that a public nuisance exists on the property and order the abatement thereof by repair or replacement or removal of the items found to constitute a public nuisance, or order the abatement thereof by demolition; or

(2) Sustain the finding that a public nuisance exists on the property and order that the structure be secured and the premises maintained so as to lessen the severity of the public nuisance; or

(3) Continue the matter for a period not to exceed 45 days for further investigation and disposition; or

(4) Take such other action and render such other orders as it deems appropriate within the authority conferred by this chapter; or

(5) Reverse the finding that a public nuisance exists on the property and dismiss the case.

1328.03.06.2.2 In an appeal concerning public nuisances defined in Section 1328.01.2 the Board may vote to:

(1) Sustain the finding that a public nuisance exists on the property and order the abatement thereof.

(2) Take such other action and render such other orders as it deems appropriate within the authority conferred by this chapter.

(3) Reverse the finding that a public nuisance exists on the property and dismiss the case.

(4) Determine that the owner of the real property or personal property used in furtherance of the public nuisance was, in good faith, innocent of knowledge of the use of such property as a nuisance and that, with reasonable care and diligence, such owner could not have known thereof, and dismiss the case with respect to that owner.

1328.03.06.3 A copy of the decision of the Board shall be mailed, with certificate of mailing, to the last known address of the owner, or person representing the owner, who demanded the hearing. It shall be the responsibility of the owner, or person representing the owner, to keep the secretary of the Board apprised of their current mailing address. For the purpose of appeal pursuant to ORC Chapter 2506, the final order shall be deemed to have been entered on the date on which the copy of the decision was mailed.

1328.04 SERVICE OF NOTICE TO ABATE

1328.04.1 Service of notice to abate. A notice to abate shall follow the method of service found in Section 1322.07.3 of this code.

1328.04.2 Posted notice to abate. A notice to abate shall remain on the structure, equipment, or premises which qualify as a public nuisance until the condition is corrected or removed in accordance with the notice to abate as served. No person shall remove such notice until the Chief Code Official determines that the public nuisance has been abated.

SECTION 1328.05 ABATEMENT BY CITY

1328.05.1 General. Failure to abate the public nuisance within the time provided for in the notice to abate, or failure to submit a written request for a compliance extension at least twenty four (24) hours prior to the compliance deadline prescribed within the notice to abate is cause for the City to abate the public nuisance at the expense of the owner who caused or permitted such public nuisance to exist.

1328.05.2 Abatement by City. The City shall be authorized, at any time after the expiration of the time provided in the notice to abate to enter upon such premises to abate the nuisance. In abating the nuisance, the City shall take such action as reasonably necessary to complete the abatement and all costs thereof shall be recovered from the owner as provided in Section 1322.06.8.

1. All costs incurred by the City in abatement of the nuisance plus an administrative fee, as outlined in the City of Kettering's Schedule for Permits, Inspections, Certificates, and Fees, shall be invoiced directly to the owner in accordance with Section 1322.06.8.

SECTION 1328.06 ABATEMENT AND COMPLIANCE DEADLINES

1328.06.1 Abatement plans and compliance agreements. If a written request for an extension of the compliance deadline is received at least twenty four (24) hours prior to the compliance deadline, the Chief Code Official, at their discretion, may grant up to a thirty (30) day extension to the time originally permitted to complete the abatement. An extension of time beyond thirty (30) days for good cause shall require a compliance agreement with the owner. Said agreement will include a list of all required work and a time frame for completion of each item and shall not exceed a 90 day time period.

SECTION 1328.07 ABATEMENT BY DEMOLITION

1328.07.1 Demolition of nuisance structures. Upon failure of the owner to abate the nuisance within the time period outlined in the notice to abate, or such additional time period as may be granted by the Chief Code Official, and review and concurrence by the Chief Code Official, the Chief Building Official and the Planning and Development Director, the City shall be authorized, at any time thereafter, to enter upon such premises to abate the nuisance by demolition and removal of the nuisance structure. In abating such nuisance, the City may call upon any department of the City for any required assistance, and by private contract complete the abatement thereof. The costs of such abatement action shall be recovered from the owner according to the procedures as set forth in Section 1328.05.

1328.07.2 Salvage materials. When any nuisance structure has been ordered demolished and removed, the City may sell the salvage and valuable materials from the nuisance structure or retain them for City use. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 1328.08 ILLEGAL OCCUPANCY OF A PUBLIC NUISANCE.

1328.08.1 No owner or other person shall occupy or let or permit to be occupied or let by another for occupancy any structure that has been declared by the Chief Code Official to be a public nuisance without first applying for and obtaining the written consent of the Chief Code Official. Consent shall be given when all violations of all applicable housing, building, and other health and safety codes of the City of Kettering and the State of Ohio have been corrected, when any injunctions obtained against use or occupancy have been dissolved, and when all parties have complied with all applicable requirements of § 1328.03.5.

1328.08.2 In the event of a violation of Section 1328.08.1 by the owner, the cost of the relocation of tenants by the city shall be included as a cost of abating or lessening the severity of the public nuisance, and shall be recovered in the manner provided in § 1328.05.2.

1328.08.3. Unauthorized entry upon nuisance premises.

1328.08.3.1 No owner or other person shall enter or be present in or on any building or premises that has been posted with a notice identifying the said building or premises to be a public nuisance, without first obtaining authorization in writing from the Chief Code Official and having such written authorization on his/her person at the time.

1328.08.3.2 It shall be an affirmative defense to a violation of this section that the person was the owner, or was authorized by the owner to be present on the said premises, and that one of the persons present had the required written authorization on his/her person at the time.

1328.08.3.3 The officers, agents, and employees of the city, state, or federal government, or any political subdivision, or of any public utility, shall be exempt from the requirements of this section while in the course of their employment.

1328.08.3.4 Written authorization, as provided in this section, shall be issued by the Chief Code Official to any person who provides documentation which, on its face, indicates that such person is either an owner of the premises or is authorized by the owner to be present, or to any person who makes application and pays for any permit to do work on the premises.

1328.08.3.5 Written authorization, as provided in this section, shall not be issued in connection with any property which has been declared a public nuisance, unless all parties have complied with all applicable requirements of Section 1328.03.5.

1328.08.3.6 The issuance of an authorization provided herein shall not be construed to create a privilege, as that term is used in ORC Sections 2911.21 or 133.05, nor shall this section be deemed to have any effect whatsoever on the interpretations or application of those sections.

1328.08.4 Culpability.

1328.08.4.1 A violation of Sections 1328.03.3, 1328.03.4, and 1328.03.05 shall be construed to be a strict liability offense.

1328.08.4.2 A violation of Section 1328.08 shall be construed to be a strict liability offense as to all owners or persons responsible for the nuisance. Negligence, as defined in ORC 130.08, shall be the standard of culpability as to all other persons who violate Section 1328.08.

1328.08.5 Reputation.
In any case in which it necessary to prove that a property is a public nuisance as defined in Section 1328.01, evidence as to the reputation of such place shall be admissible on the question of whether the property is or is not a public nuisance, and every owner and every person responsible for the premises shall be presumed to have knowledge of the reputation of the place.

SECTION 1328.09 NON-COMPLIANT BOARDED STRUCTURES

1328.09.1 Notice to Elect. The owner of a structure known to have been boarded for fourteen (14) days or more, whether boarded by the City or by the owner, shall receive from the Chief Code Official a notice to elect whether to rehabilitate, sell, or demolish the structure in order to bring the structure into compliance with current code. Service of notice to elect shall be as set forth in Section 1328.04. The owner shall have the right to appeal such notice to elect, pursuant to Section 1322.11. Within thirty (30) days of the issuance date of the aforesaid notice to elect, the owner of the structure shall submit to the Chief Code Official, in writing, their plan to meet the notice to elect order and a timetable for completing the proposed work. The Chief Code Official shall within five (5) working days examine the proposal and make a determination as to the reasonableness of the owner's response.

1. If the Chief Code Official determines the response is reasonable and provided there is a timely start and adequate progress, a timetable of as long as one hundred and eighty (180) days after approval of the response may be allowed, and further City enforcement shall be withheld as long as the property remains secure and the timetable is maintained. Extensions to the timetable may be approved for just cause;

2. If the Chief Code Official determines the proposed timetable in the notice to elect is unreasonable, or that the proposal will not bring the property into compliance with the law, the Chief Code Official shall disapprove the proposal, state a written reason(s) therefor to the owner, and continue

enforcement action as prescribed to require the repair or demolition of the structure;

3. If the owner submits a proposal to sell, the owner must demonstrate to the City that there will be full disclosure of the nuisance abatement issue as required in Section 1328.03.4. The owner must also work with the City to ensure that the new owner enters into a compliance agreement with the City, which shall outline a time frame for completion of the work and shall become effective twenty four (24) hours after closing on transfer of the property.

1328.09.2 Finding upon failure to comply. It is hereby found that structures whose owners have not responded to a notice to elect within thirty (30) days of issuance of such notice are public nuisances. This finding reflects the blighting influence of such structure(s) due to their accelerated decay and the tendency to become a harborage for rodents and vermin as well as an attractive nuisance for vandals. Thus, the City shall have the right to pursue abatement options which shall include demolition pursuant to Section 1328.07.

SECTION 1328.10 TALL GRASS/WEEDS

1328.10.1 Nuisance determination. Whenever there is reasonable basis to believe that a public nuisance, as defined in Section 1328.01, exists, the Chief Code Official, or their designee, shall inspect or cause the inspection of the property or premises upon which the public nuisance is believed to exist. All findings and recommendations with respect to the existence of the public nuisance shall be documented photographically and in writing and such documentation shall be filed with the Chief Code Official.

1328.10.2 Notice to abate. When the Chief Code Official determines a nuisance exists under Section 1328.01.1.12 involving grass and/or weeds, the Chief Code Official, or their designee, shall send or deliver written notice to abate such public nuisance to the owner and/or occupant by regular, U.S., first-class mail, postage prepaid, plus posting such notice in a conspicuous place in or about the premises or property.

Notice shall be in the form as prescribed in Section 1322.07.2.

1328.10.3 Removal of tall grass and weeds. The owner, tenant, or user of the property, or other responsible person to whom a notice to abate has been served, shall, within five (5) days of the date of service of such notice, cut and remove such vegetation causing the nuisance.

1328.10.4 Abatement. Failure to abate the public nuisance within the time frame provided for in the notice to abate shall cause the City to abate the nuisance at the expense of the owner pursuant to Section 1328.05.

SECTION 1328.11 JUNK AND ABANDONED VEHICLES

1328.11 Junk Motor Vehicles.

1328.11.1 Definitions.

"Junk Motor Vehicle" means any motor vehicle meeting all of the following requirements:

1. A vehicle that has been left on private property for more than forty-eight (48) hours or left on a public street, public way, or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for more than forty-eight (48) hours; and

2. A vehicle that is three years old, or older; and

3. A vehicle that is extensively damaged, including but not limited to, any combination of the following types of damage: deflated, wrecked, or missing tires or rims; missing or wrecked body parts; broken or missing headlights, tail lights or brake lights; broken, cracked, or missing windows or windshields; missing all or part of the motor or transmission; missing, expired, or invalid license plate(s) or validation sticker(s); or a vehicle that is otherwise apparently inoperable; and;

4. A vehicle that has a fair market value of One Thousand Five Hundred Dollars ($1,500.00) or less.

Junk Motor Vehicle shall not mean a vehicle properly stored on the premises of an authorized salvage facility or repair facility in conformance with applicable law. "Salvage" facility shall have the same meaning as used in the Kettering Zoning Code.

1328.11.2 Public Nuisance.

1328.11.2.1 The location or presence of any Junk Motor Vehicle on any public or private land or property, or public or private street, alley, or way within the City of Kettering is hereby deemed a public nuisance and is subject to summary abatement as provided in this section or any other ordinance or law of the City of Kettering or as provided under any relevant portion of the ORC.

1328.11.2.2 No person shall permit any Junk Motor Vehicle to remain in the open on any public or private property within the City of Kettering after receipt of a notice to remove such vehicle.

1328.11.3 Notice.

1328.11.3.1 The Chief Code Official, the Chief Code Official's designee(s), and sworn members of the Police Department are hereby authorized to issue written notice and order Junk Motor Vehicles to be removed.

1328.11.3.2 Such notice shall be provided in accordance with the notice requirements of this Property Maintenance Code. The notice shall further describe the vehicle to be removed with reasonable specificity, shall state that it constitutes a Junk Motor Vehicle and a public nuisance, shall state that the owner has fifteen (15) calendar days in which to either remove the vehicle or give written notice of a request for a hearing appealing the order under Section 1322.11.

1328.11.4 Conclusive Presumption of Junk Motor Vehicle as a Public Nuisance.
If any recipient of a notice to remove a Junk Motor Vehicle fails to abate the nuisance or fails to appeal the notice in writing to the Property Maintenance Appeals Board within fifteen (15) calendar days after service of the notice, it shall be conclusively presumed to establish the Junk Motor Vehicle as a public nuisance and such vehicle may be removed immediately by the Police Department.

1328.11.5 Removal and Disposal of Junk Motor Vehicles

1328.11.5.1 The Police Department shall order the Junk Motor Vehicle towed or otherwise removed from the property or place where found, if such owner fails or refuses to remove the motor vehicle within the applicable time period after service of notice. Thereafter, such Junk Motor Vehicle shall be treated as abandoned and shall be deemed forfeited, to be disposed of in accordance with this Section 1328.11 or any relevant portion of the ORC.

1328.11.5.2 Prior to being removed, the abandoned Junk Motor Vehicle shall be photographed by a representative of the Chief Code Official or the Chief of Police. Such person shall also record the make and model of the vehicle, the vehicle identification number when available, and shall detail the damaged or missing parts or equipment to substantiate the value of One Thousand Five Hundred Dollars ($1,500.00) or less.

1328.11.5.3 The Police Department shall thereupon tow, remove, or cause to be removed such abandoned Junk Motor Vehicle and shall immediately dispose of it to a motor vehicle salvage dealer, as defined in ORC 4738.01, or a scrap metal processing facility, as defined in ORC 4737.05, or to any other facility under contract with the City of Kettering for the disposal of such motor vehicles. The records and photographs relating to the abandoned junk motor vehicle shall be retained by the Kettering Police Department for a period of at least two years. The junkyard, scrap metal processing facility, or towing service in possession of such vehicle shall execute in quadruplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the subject motor vehicle and the manner in which it was disposed of, indicating that all requirements of this section have been complied with, and filing the same with the Clerk of Courts of Montgomery County. The clerk of courts shall retain the original of the affidavit for the files, furnish one copy thereof to the registrar, one copy to the junkyard or other facility handling the disposal of the vehicle, and one to the Kettering Police Department, who shall file such copy with the records and photograph(s) relating to the vehicle.

1328.11.5.4 Any monies arising from the disposal of a Junk Motor Vehicle in excess of the expenses resulting from the removal of the vehicle shall be credited to the general fund of the City of Kettering. The City assumes no liability for towing costs not covered by the sale of such vehicle.

1328.11.6 Collector's vehicles. No person shall be prevented from storing or keeping, or restricted in the method of storing or keeping, any collector's vehicle on private property with the permission of the person having the right to the possession of the property, except that a person having such permission shall be required to conceal, by means of an enclosed building, garage, or other suitable enclosure, any unlicensed collector's vehicle.