

CODIFIED ORDINANCES OF OAKWOOD

PART SEVENTEEN - PROPERTY MAINTENANCE CODE

ADOPTION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE (2003)

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ADOPTION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE (2003)

In 1996, a committee consisting of representatives of the three statutory members of the International Code Council: Building Officials and Code Administrators International, Inc. (BOCA), International Conference of Building Officials (ICBO) and Southern Building Code Congress International (SBCCI) developed a comprehensive set of regulations for existing buildings that was consistent with the existing model property maintenance codes at the time. This 2003 edition presents the code as originally issued, with changes approved through the ICC Code Development Process through 2002.

The City of Oakwood hereby adopts by reference the International Property Maintenance Code (2003 Edition), as the Property Maintenance Code of this city, subject to the modifications set forth in this Part Seventeen of the Codified Ordinances.

The entire text of the nationally published International code is not reprinted in the following pages, but copies may be obtained (for a reasonable reproduction cost) from the administrative offices of the City of Oakwood. This portion of the Codified Ordinance makes various changes, deletions and additions ("modifications") to the International code so as to adapt it for use in and by the City of Oakwood.

In the International Code, various sections are grouped together into divisions called Articles. To correspond with the other portions of the codified ordinances of this city, the articles are changed to chapters within this Part Seventeen of those ordinances. Accordingly, Article 1 of the International Property Maintenance Code entitled Administration becomes Chapter 17-One.

In order to correlate paragraph numbers of the International Property Maintenance Code with the numbers assigned to chapters and sections within this part of the Codified Ordinances, all International Code section numbers shall be deemed to be preceded by the number 17. For example, to locate in the Oakwood Property Maintenance Code any modification of paragraph 100.1 of the International Code, look for 17-100.1; and to locate International Code paragraph 400.3, look for 17-400.3 in the Oakwood Property Maintenance Code.

Administration and Enforcement

CHAPTER 17-ONE ADMINISTRATION, ENFORCEMENT, INSPECTIONS

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All the provisions of Chapter 1 of the International Property Maintenance Code (2003) are incorporated by reference so as to apply in the City of Oakwood, except to the extent modified by or deleted in this Chapter 17-One.

17-101 GENERAL.

17-101.1 TITLE.

This International Property Maintenance Code is amended to read as follows:

This portion of the Codified Ordinances shall be known as the Property Maintenance Code of the City of Oakwood (referred to in this Part Seventeen of the Codified Ordinances as the "code").

17-101.2 SCOPE AND PURPOSE.

The title of this International Property Maintenance Code Section 101.2 is amended to read as set forth above. The body of this section is amended by adding the following material at the end of the paragraph:

Additional purposes of this code are to conserve and protect the value of premises, to protect and improve aesthetic aspects of premises and the City of Oakwood, and to provide for protection against and elimination of nuisances.

17-101.3 APPLICATION OF OTHER CODES.

The last sentence of this section is hereby revised to read as follows:

Nothing in this Code shall be construed to cancel, modify or set aside any provisions of the Oakwood Zoning Code.

17-103 APPOINTMENT OF CODE OFFICIAL AND DEPUTIES.

The title of International Code Section 103 is amended to read as set forth above.

17-103.1 GENERAL.

This section is amended to read as follows:

The Code Official shall enforce all provisions of this Code.

17-103.2 APPOINTMENT.

This section is amended to read as follows:

The Code Official shall be appointed by the City Manager.

17-103.3 DEPUTIES.

This section is amended to read as follows:

The City Manager shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees. All persons so appointed by the City Manager, or holding delegated authority from the City Manager with regard to the administration or enforcement of any part of this code, shall be deemed to constitute deputy code officials and shall be entitled to exercise all powers of the code official during his temporary absent or disability or while carrying out the administration or enforcement duties delegated to them by the City Manager.

17-104 DUTIES AND POWERS OF CODE OFFICIAL.

17-104.3 INSPECTIONS.

The authorization given by this section for the code official to enter any structure or premises shall exist only to the extent that official has a right of entry as referred to in the International Code Section 104.4.

17-104.4 RIGHT OF ENTRY.

The following sentence is added at the end of this section:

The code official shall be deemed to be an agent of the owner or operator to the extent the owner or operator has agreed to allow the code official access to the structure or premises.

17-104.7 DEPARTMENT RECORDS.

This section is amended to read as follows:

Any records kept by or for the code official or by other employees of the city in connection with the administration or enforcement of this code shall be subject to the public records statutes of the State of Ohio.

17-106 VIOLATIONS

17-106.1 UNLAWFUL ACTS.

International Code Section 106.1 is hereby modified and divided into five separate paragraphs. Paragraph A. includes all of International Code 106.1. In addition, the following material shall be added to and at the end of paragraph A:

A. The unlawful acts described in this paragraph A. shall include:

1. Transfer of legal or equitable ownership of premises or change of tenant without having obtained a pre-sale inspection as required by 17-107.5 and

17-107.11 or without furnishing the proposed new owner a true copy of any conditional certificate of occupancy or other notice of violation and obtaining a signed receipt for it, as required by 17-107.10.

2. Occupancy or use of any premises by a new owner or tenant without that owner having obtained from the code official (or from the previous owner) a valid certificate of occupancy for the premises, as required by 17-107.5.
3. Failure to timely submit the information required by Section 17-800.4.
4. Operating, letting, listing, advertising, or otherwise making available, any residential property in the city of Oakwood for Transient Rental purposes, as prohibited by 17-801.3.

Paragraphs B through E are hereby added to Section 106.1, as follows:

- B. It shall be a separate unlawful act for any person, firm or corporation (who previously committed an unlawful act as described in paragraph A immediately above, the contents of which are incorporated herein by reference) to commit a second such act, whether contrary to or in violation of exactly the same or some other requirement of this code, within 5 years after conviction of the previous unlawful act under paragraph A.
- C. It shall be a separate unlawful act for any person, firm or corporation (who previously committed an unlawful act as described in paragraph A immediately above, the contents of which are incorporated herein by reference) to commit a third or subsequent act, whether contrary to or in violation of the same or some other requirement of this code, within 10 years after conviction of the previous unlawful act under paragraph A.
- D. It shall be unlawful for any person, firm or corporation to fail to obey, at any time within 60 days after compliance was required, a lawful order of the code official or to remove or deface a placard or notice posted under the provisions of this code.
- E. It shall be a separate unlawful act for any person, firm or corporation to fail to obey a lawful order of the code official at any time on or after the 61st day after compliance was required.

17-106.3 PROSECUTION OF VIOLATION.

In the third sentence of this paragraph, the word "shall" is hereby changed to "may", so as to make a civil law suit for an injunction an option rather than a requirement.

17-106.4 VIOLATION PENALTIES

The Content of this section is amended to read as follows:

- A. Whoever commits an unlawful act as described in paragraph A of 17-106.1 shall be guilty of an unclassified misdemeanor.
- B. Whoever commits an unlawful act as described in paragraph B of 17-106.1 shall be guilty of a fourth degree misdemeanor.
- C. Whoever commits an unlawful act as described in paragraph C of 17-106.1 shall be guilty of a third degree misdemeanor.

- D. Whoever commits an unlawful act as described in paragraph D of 17-106.1 shall be guilty of a fourth degree misdemeanor.
- E. Whoever commits an unlawful act as described in paragraph E of 17-106.1 shall be guilty of a third degree misdemeanor.

17-107 NOTICES, ORDERS, AND PRE-SALE INSPECTION.

The title of International Code Section 107 is amended to read as set forth above.

17-107.1 NOTICE TO OWNER OR TO PERSON OR PERSONS RESPONSIBLE.

The word "condemnation" is changed to its actual meaning, i.e. ordered to be vacated. As another change, the following new paragraphs are added at the end of this section:

If the Oakwood version of the Property Maintenance Code refers to a notice or order being given to lienholders (see, for example, 17-110) service of it upon a lienholder shall be accomplished in the same manner as notices and orders are to be served upon the owner of any property.

If the defective aspects caused the property to be unsafe or hazardous and subject to a notice to vacate, and if those unsafe or hazardous conditions have not been corrected within the time allowed in the vacation notice, that notice shall be deemed to have become an order to vacate. The consequences of such an order are set forth in 17-107 of this code.

17-107.2 FORM OF NOTICE.

The title of International Code Section 107.2 is amended to read as set forth above. Subparagraphs 1 through 6 in that section are hereby redesignated as A through F. In addition, that paragraph F is revised to read as follows:

- F. Include an explanation of the owner's (and lienholder's) right to appeal the decision of the code official in the manner described in 17-111.1 and/or to seek a variance under 17-111.2.

The content of this section is supplemented by the following new subparagraphs G, H, I and J which explain additional matters to be included in the notice:

- G. If the notice is in the form of a conditional occupancy certificate (resulting from a pre-sale inspection under 17-107.5) which lists aspects of the premises not in compliance with other sections of this code, it shall include an explanation of the certificate of occupancy procedures and the possibility of the owner shifting responsibility for correcting those unsafe or unlawful items to the new owner through a written agreement between the parties under 17-107.

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- H. The notice of any violation and of the requirement that it be corrected shall provide at least 30 days prior notice of the fact that, if the corrective work has not been completed within the reasonable time allowed in the correction order which is part of the notice, the city intends to enter upon the premises under authority of 17-110 to perform the work required by the notice. Such advance notice may be reduced or dispensed with as explained in 17-109.5 dealing with emergency situations. This type of advance notice provides a basis for the city to recover (through the procedures described in Ohio Revised Code 715.261) any costs it may incur in correcting unsafe structures or hazardous conditions or abating unlawful conditions as nuisances.
- I. The notice shall give an explanation of the fact that, as an alternative to performing the correction work within the reasonable time allowed in the notice (and to avoid the city entering upon the property to perform that work if the owner fails to do so), the owner or any lienholder of record may enter into a written contract with the city in which that owner or lienholder gives a written promise, guaranteed by a sufficient surety (as described below), that the work will be completed within such additional reasonable time as may be agreed to between those parties. Such a sufficient surety must be a performance bond, letter of credit or cash deposited with the city in the amount of one and one-half times the cost of the work, as reasonably estimated by the city, with the terms, conditions and issuing company or bank to be satisfactory to the city attorney.
- J. The notice shall include an explanation of the intention of the city to recover the costs it may incur in correcting such unsafe, hazardous, or unlawful nuisance conditions through certifying those costs to the county auditor to be placed as a real estate tax lien against the premises (under Ohio Revised Code 715.261 as referred to in paragraph H above) and/or to commence a civil lawsuit to recover those costs from the owner and/or to use other legal remedies to enforce this code.

17-107.5 PRE-SALE INSPECTION AND CERTIFICATE OF OCCUPANCY REQUIRED FOR NEW OWNERS AND TENANTS.

The title of this section is amended to read as set forth above. The content of this section is revised to read as follows:

- A. It shall be unlawful for the owner of any real estate premises to transfer legal or equitable ownership of that premises ("title"), or change of tenant, without having obtained a pre-sale inspection of it under this code. This inspection will enable the code official to work toward accomplishing the purposes of this code by listing any repairs or other work necessary to eliminate any unsafe or hazardous conditions, to comply with applicable requirements of the Fire Code, Zoning Code and other ordinances, and also to correct any unlawful nuisance conditions in the form of violations of this Property Maintenance Code. Such an inspection and list shall be part of the process of issuing the required certificate of occupancy.

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- B. Application for a pre-sale inspection shall be made on such form and in such manner as may be prescribed from time to time by the code official. The city may charge a fee for this service as provided for under Chapter 153.
- C. Within 21 days after application was made for a pre-sale inspection, the code official shall have completed the inspection, compiled a list of any items to be brought into compliance with this code and applicable provisions of the Fire Code, Zoning Code and other ordinances, and shall have issued a violation letter to the owner or lienholder of a premises. This period of time may be extended by the code official if a delay is caused by any matter beyond the reasonable control of that official.
- D. A certificate of occupancy shall be valid for one year after the violations have been corrected to the satisfaction of the code official or until 60 days after the premises may be transferred to a new owner or tenant, whichever occurs sooner.
- E. If the owner, occupant, or agent thereof does not consent to the proposed inspection, the code official may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the nonconsent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the code provisions identified in this section. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall issue:
 - 1. Eyewitness account of violation;
 - 2. Citizen complaints;
 - 3. Tenant complaints;
 - 4. Plain view violations;
 - 5. Violations apparent from city records;
 - 6. Property deterioration;
 - 7. Age of property;
 - 8. Nature of alleged violation;
 - 9. Condition of similar properties in the area;
 - 10. Documented violations on similar properties in the area;
 - 11. Passage of time since last inspection;
 - 12. Previous violations on the property.

If a warrant is issued, no owner, occupant, or agent thereof shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the code official or his/her duly authorized designee for the purpose of inspection and examination pursuant to this section and consistent with the terms of the warrant. If the court declines to issue a warrant, or if no warrant is sought, the inspection shall still take place but the scope thereof shall be limited to such areas as are in plain view. A limited-scope inspection conducted pursuant to this paragraph shall be considered

an "inspection" for purposes of Section 17-106 and all other provisions of Title 17 pertaining to the pre-sale inspection program set forth in this section. No criminal penalty shall attach, nor shall any certificate of occupancy be denied, solely by reason of the owner's, occupant's, or agent's refusal to consent to a full inspection.

A certificate of occupancy signed by the code official shall be evidence that the premises complies with the requirements of this code and all other applicable ordinances, provided however, that if a limited-scope inspection is conducted pursuant to subsection E above, the certificate of occupancy shall note that fact and shall not constitute evidence of code compliance as to any uninspected portions of the premises. If the inspection disclosed aspects of the property not in compliance, the certificate shall be merely a conditional certificate of occupancy. The condition shall be that the defective aspects of the premises must be brought into compliance with this code within such reasonable length of time as may be set forth in the certificate.

Such a conditional certificate shall be deemed to be a notice under 17-110.1 and/or 17-110.2 that the premises and its owners are in violation of this code or other applicable ordinances and that the unsafe, hazardous, or unlawful conditions must be corrected. The certificate shall constitute a notice, as referred to in 17-106.1 and its subparts, and shall include all matters required by that section.

LEGISLATIVE HISTORY: Ord. 2571, passed 7/1/68; Ord. 2579, passed 9/16/68; Ord. 2617, passed 4/21/69; Ord. 3109, passed 12/17/79; Ord. 3253, passed 4/5/82; Ord. 3906, passed 11/6/89; Ord. 4145, passed 7/29/92 (Ed. Note: replacement and recodification); Ord. 4587, passed 7/11/2005; Ord. 4827, passed 7/5/16.

17-107.6 RESPONSIBILITY FOR CORRECTING DEFECTIVE ITEMS.

This section is added to implement the Oakwood pre-sale inspection procedure. It reads as follows:

The responsibility for making repairs or completing such work as may be necessary to correct any defective aspects of the premises shall rest upon the person who was the owner immediately prior to the inspection which was the basis for the notice under 17-107.1. Such responsibility may be shifted to a new owner by a written agreement in which that new owner assumes the responsibility, after having been given a copy of the conditional certificate of occupancy including the list of violations. A signed copy of such an agreement shall be filed with the code official. A written assumption by the new owner shall release the previous owner from responsibility to the city under this code.

If responsibility is so assumed, the new owner shall be obligated to comply with the requirements of the conditional certificate of occupancy within the time required by the code official.

A new owner who does not assume such responsibility but instead relies upon the prior owner being obligated to correct violations identified during an inspection of the premises takes the risk that the prior owner may fail to do so as and when required. If that occurs, the new owner is at risk because any unsafe structure on the premises must be ordered to be vacated under 17-108.1.1. Further, the conditional certificate of occupancy constitutes a repair, closing or removal order under 17-110 to remedy any unsafe, hazardous or any unlawful nuisance condition, with the expenses of such a procedure to be assessed against the premises as part of real estate taxes on that property.

17-107.7 WATER AND SEWER BILLS TO BE PAID IMMEDIATELY AS A CONDITION OF OCCUPANCY CERTIFICATE.

This section is added to implement the Oakwood pre-sale inspection procedure. It reads as follows:

To obtain either a certificate of occupancy or a conditional certificate of occupancy, all outstanding water and sewer bills for the property must be paid at once and in full.

17-107.8 CERTIFICATE OF OCCUPANCY REQUIRED FOR NEW OWNER.

This section is added to implement the Oakwood pre-sale inspection procedure. It reads as follows:

It shall be unlawful for any person who acquires legal or equitable title to a premises (after the date this Property Maintenance Code is adopted) to occupy or to use it without having obtained from the code official or the previous owner a valid certificate of occupancy (absolute or conditional) for that premises. As explained in 17-107.5 D, a certificate of occupancy is valid for only one year after its date or until 60 days after title to the premises is transferred to a new owner, whichever occurs sooner. No new occupancy certificate shall be issued for the premises without a new inspection (which may or may not reveal and require correction of additional unsafe or unlawful matters).

17-107.9 DISCLOSURE OF VIOLATIONS TO NEW OWNER.

This section is added to implement the Oakwood pre-sale inspection procedure. It reads as follows:

It shall be unlawful for the owner of any property upon whom a notice of violation has been served (in the form of a list of defects or violations attached to a conditional certificate of occupancy or as a result of violations otherwise noted by the code official) to transfer legal or equitable ownership of the property to another until the defects and violations listed in that notice have been corrected, or until the owner or a lienholder has entered into a written contract to make the corrections (as described in 17-107.2), or until such owner furnishes the proposed new owner a true copy of that notice and obtains a signed receipt that he has done so and that

the proposed new owner is aware of the pending notice and its requirement of corrective work.

17-107.10 AFTER-VACANCY INSPECTIONS FOR BUSINESS USES.

This section is added to implement the Oakwood pre-sale inspection procedure. It reads as follows:

Pre-sale type inspections applicable to business uses shall be conducted upon a change of tenant or ownership.

All inspections must be conducted as soon as reasonably practical after being vacated by tenants or in contemplation of a change in ownership as required by Chapter 17-107.5. Such commercial rental units must be brought into compliance with requirements of this Property Maintenance Code in connection with each change of occupancy by new tenants.

17-107.11 FEES FOR INSPECTIONS AND CERTIFICATES OF OCCUPANCY.

This section is added to implement the Oakwood pre-sale inspection procedure. It reads as follows:

Fees to be charged for pre-sale inspections (and similar inspections made of rental units after tenants vacate those units), shall be as set by the City Manager in the fee schedule issued under Chapter 153 of the Administrative Code. Said fees shall be paid at the time an individual requests a pre-sale inspection and no pre-sale inspection shall be conducted until such time as the appropriate fee is received by the city.

17-108 UNSAFE STRUCTURES AND EQUIPMENT

17-108.1 GENERAL.

The word "structure" is changed to "premises" so as to apply this section not only to structures but also to the land on which they are located.

In the third line of the International Code section, the words "or is found unlawful" are hereby deleted. In this way, the grounds for ordering a premises to be vacated in whole or in part are limited to those situations in which it is found to be unsafe. The word "condemned" is changed to its actual meaning, i.e. ordered to be vacated. This change is made to avoid misunderstandings which might occur because in Ohio law the word "condemned" often refers to the process in which a government purchases real estate through the power of eminent domain; whereas in the International Code the meaning of "condemned" is simply that something is ordered to be vacated. In addition, the words "shall be" as they precede the word "condemned" (already changed to "ordered to be vacated") are revised to read "may be."

The following sentence is added at the end of this section:

The notice and order to vacate issued under this section shall be in addition to, and may be combined with, any notice and order issued under 17-108 for the repair, closing or removal of any unsafe premises.

17-108.1.1 UNSAFE STRUCTURES.

In the first line the word "structure" is changed to "premises." In the third line the words "the structure" are changed to "any structure on the premises or to any persons who may enter upon the premises." In the fifth line the word "structure" is changed to "premises." Further, the body of this section is amended to add at its end the following new paragraphs:

Further, an unsafe premises is one on which any building is insecure or is open and vacant or is abandoned or deserted.

In any event, every premises shall be deemed to be unsafe if it has any of the following conditions:

- A. It is structurally defective in that any bearing wall or bearing element, interior or exterior, leans, buckles or is in such other condition as to substantially weaken the structural support it provides.
- B. It is structurally defective in that any structural part has insufficient strength to be reasonably safe for the purpose used, or any portion of a floor or roof is overloaded so as to create a substantial risk of collapse of, or damage to, any part of the structure.
- C. It is structurally defective in that it lacks facilities required by this Property Maintenance Code (or by the applicable Fire Code or any applicable state or federal statutes) for ingress and egress, since the absence of such facilities creates a safety risk in the event of fire or other hazards.
- D. It is structurally defective in that it lacks minimum light, air and sanitation facilities required by this code (or by any applicable state or federal statutes) for the protection of any other land, building or structure or so required for the protection of present or future occupants or users of the structure or any member of the general public.
- E. It is structurally defective in that it has been damaged by fire, wind or other causes, in whole or in part, so as not to provide adequate shelter from the elements or to have become dangerous to any other land, building or structure or to present or future occupants or users or to any member of the general public.
- F. It is structurally defective in that it has any item (including but not limited to land and/or vegetation) so attached or in such condition that there is a substantial risk it will fall in a manner causing danger to any other land, building or structure or to present or future occupants or users or to any member of the general public.

- G. It constitutes a hazardous condition in that any portion of it has become, in whole or in part, a serious hazard to that structure or premises, to any other structure or premises, or to the physical or mental health or safety of present or future occupants or users or of any member of the general public, and its condition is such that it constitutes a violation of any of the following:
 - 1. Sections of Chapter or 17-Three Exterior and Interior Maintenance, which define conditions which cause a premises to be unsafe or hazardous.
 - 2. Chapter 17-Four, Light, Ventilation and Occupancy Limitations;
 - 3. Chapter 17-Five, Plumbing Facilities and Fixture Requirements,
 - 4. Chapter 17-Six, Mechanical and Electrical Requirements;
 - 5. Chapter 17-Seven, Fire Safety Requirements;
- H. It is unfit for human occupancy as defined in Section 17-108.1.3 below.

17-108.1.3 UNSAFE BECAUSE UNFIT FOR HUMAN OCCUPANCY.

The title of International Code Section 108.1.3 is amended to read as set forth above.

The body of this section is amended by changing "structure" to "premises." The grounds for a premises to be declared to be unfit for occupancy are limited to the matters set forth in this section, which is also amended to add at its end the following new paragraphs:

In any event, every premises is deemed to be unfit for human occupancy, as described in this section if its condition is such that it constitutes a violation of:

- A. Any section of Chapter 17-Three, which defines conditions which makes premises unfit for human occupancy.
- B. violation of Chapter 17-Three, General Requirements,
- C. violation of Chapter 17-Four, Light, Ventilation and Occupancy Limitations,
- D. violation of Chapter 17-Five, Plumbing Facility and Fixture Requirements;
- E. violation of Chapter 17-Six, Mechanical and Electrical Requirements;

F. violation of Chapter 17-Seven, Fire Safety Requirements;

A structure found to be unfit for human occupancy or use under this section shall be deemed to be an unsafe structure.

17-108.2 CLOSING OF VACANT STRUCTURES.

International Code Section 108.2 is deleted from this part of the code which deals with the closing of vacant structures. The topic of closing vacant structures has been moved to Section 17-110, Repair, Closing or Removal of Unsafe, Hazardous or Unlawful Nuisance Conditions.

17-108.4 PLACARDING OF STRUCTURE.

The word "condemnation" is changed to its actual meaning, i.e. an order to vacate the premises. Similarly, the word "condemned" as part of the language to be used on the placard is hereby changed to its meaning: Ordered to be vacated.

17-108.4.1 PLACARD REMOVAL.

The word "condemnation" is changed to its true meaning: an order to vacate the premises.

17-108.5 UNLAWFUL PREMISES CONSTITUTE PUBLIC NUISANCES.

The title of International Code Section 108.5 is amended to read as set forth above. The body of this section is rewritten to read as follows:

Unlawful premises are those determined by the code official to be in whole or in part in violation of any of the sections of Chapter 17-Three. All properties which are unsafe, unfit for human occupancy or otherwise in violation of the Property Maintenance Code may be declared as public nuisances under the common law and laws of Ohio.

Such unlawful premises constitute public nuisances by virtue of the injury and annoyance they cause to the public and the damage they do to public interests. That injury, annoyance or damage results from the negative impact of blight, deteriorated, defective, and unlawful premises due to physical decay, neglect, unlawful use, and/or lack of maintenance. Such deterioration is caused by physical decay, neglect, extensive use, or lack of maintenance. It produces effects such as, but not limited to, holes, breaks, cracking, peeling, and rusting.

17-109 EMERGENCY MEASURES.

17-109.1 IMMINENT DANGER.

The following language is hereby added as an explanation of procedure:

Except in emergency situations as described in 17-1098, no unsafe premises may be ordered to be vacated in whole or in part until the notice procedure in 17-1076 has been completed. That procedure requires written notifications plus allowance of a reasonable time for correcting the violations.

17-109.2 TEMPORARY SAFEGUARDS.

In this section the words "shall order" are revised to read "is hereby authorized and empowered to order."

Similarly, the words "shall cause" are revised to read "is hereby authorized and empowered to cause."

17-109.3 CLOSING STREETS.

In this section the words "shall temporarily close" are revised to read "is authorized and empowered to close temporarily."

17-109.4 EMERGENCY REPAIRS.

In this section the words "shall employ" are revised to read "is hereby authorized and empowered to employ, subject to compliance with city charter and ordinance requirements as to making contracts or financial commitments on behalf of the city."

17-109.5 COSTS OF EMERGENCY REPAIRS.

The first sentence of this section states that costs incurred in the performance of emergency work are to be paid by the jurisdiction. In order to make this sentence valid under Ohio law, the following language is added to and at the end of that sentence:

subject to compliance with city charter and ordinance requirements as to making contracts or financial commitments on behalf of the city.

The second sentence of this section requires legal action to be taken. To provide the flexibility which would be beneficial to the city and its taxpayers, the words "shall institute" in that sentence are changed to "may institute."

The following language is added to and at the end of this section:

The costs of such emergency repairs to correct hazardous conditions shall be certified by the clerk of the city council to the county auditor as a tax lien upon the premises in the manner provided in Ohio Revised Code 715.261. Based on the emergency nature of such costs, notice to owners and lienholders of the emergency work may be given by other than certified mail, may be given less than the 30 days advance otherwise required under 17-107.1, or may be dispensed with entirely. If no advance notice at all is given, however, the lien

authorized by R.C. 715.261 for such costs shall be subordinate to any liens of prior record.

17-110 REPAIR, CLOSING OR REMOVAL OF UNSAFE, HAZARDOUS, OR UNLAWFUL NUISANCE CONDITIONS.

The title of this portion of the code is amended to read as set forth above.

17-110.1 UNSAFE, HAZARDOUS CONDITIONS -- REPAIR, CLOSING OR REMOVAL.

The title of this section is amended to read as set forth above. In addition, the body of this section is rewritten to read as follows:

The code official shall give notice to order the owner of any premises (and also the holders of legal and/or equitable liens upon that premises) declared by that official to be all or partly unsafe (as defined in 17-108.2, .3 or .4) to perform such repairs as necessary to make that premises safe, to secure any insecure structure, to close any open and vacant structure, or, in the alternative, to demolish and remove that structure or the unsafe aspect of the premises. Any permits required by the Building Code or Zoning Code of this city for such repair or demolition work must be obtained before such work is commenced.

The notice giving this order shall comply with the requirements of Section 17-107 and shall allow a reasonable time for such corrective work or demolition and removal, including adequate time to obtain permits, and in non-emergency situations shall provide notice at least 30 days in advance of proposed entry onto the premises by the city to perform that work.

The notice referred to in this section shall be in addition to, and may be combined with, the order to vacate which may be issued for any unsafe premises as directed by 17-108.3.

17-110.2 UNLAWFUL PREMISES -- REPAIR.

The title of this section is amended to read as set forth above. In addition, the body of this section is rewritten to read as follows:

With regard to unlawful premises constituting public nuisances (as defined in 17-108.5 above), the code official shall follow the same notice procedures as described immediately above in 17-110.1 to order that the unlawful conditions be repaired or removed. The notice is to comply with the provisions of Section 17-106.

The notice and order with regard to unlawful premises shall not provide the alternative of demolition and removal and shall not be combined with any order to vacate, because such orders to demolish and remove or to vacate may be issued only for unsafe rather than unlawful premises.

17-110.3 FAILURE TO COMPLY.

The language of 17-110.3 of the International Code is deleted entirely and is replaced by the following material:

Whenever there has been failure to comply, within the time required, with an order issued under this 17-110 of the code, the code official shall cause the work to be performed by the city or by contract or arrangement with private persons. Any such contract or arrangements with private persons shall comply with city charter and ordinance requirements as to making contracts or financial commitments on behalf of the city. Such a failure to comply means not only a failure to complete the work within the required time but also failure to use the alternative procedure (described in 17-107.2 I and referred to in the notice) of entering into a contract with the city within the required time, guaranteed by a sufficient surety, to perform the work at a later date.

17-110.4 REAL ESTATE TAX LIEN, CIVIL LAWSUIT, FOR COSTS INCURRED BY CITY.

The title of this section is amended to read as set forth above. The language of 17-110.4 of the International Code is deleted entirely and is replaced by the following material:

The cost of work required to be performed through an order referred to in 17-110 shall be certified by the clerk of the city council to the county auditor as a tax lien in the manner prescribed in Ohio Revised Code 715.261; and/or the city may commence a civil lawsuit to recover those costs.

17-111 APPEALS AND VARIANCES.

17-111.1 APPEALS.

The title of this section is revised as set forth above. The content shall be changed to read as follows:

- A. Any person aggrieved by a decision or order of the code official shall have the right to appeal that matter to the Property Maintenance Board. To do this, a printed or typed written notice of appeal (sometimes referred to in the International Code as a petition) must be signed by that person and filed with the office of the city manager within 14 days after the date service of the decision or order had been completed.
- B. An appeal shall be a means of obtaining a hearing on a contention that the code official misinterpreted or misapplied some provision of this code.
- C. The notice of appeal shall specify the decision or order appealed from and shall set forth the grounds of the appeal.

- D. Stay of proceedings: An appeal shall stay all proceedings on the decision or order from which the appeal is taken, unless the code official certifies to the Property Maintenance Board that a stay would cause imminent peril to life or imminent risk of substantial damage to property. In the event the code official so certifies, the proceedings to enforce the order or decision appealed from shall not be stayed, except by an injunction or other equitable order issued by a court, after notice to the city.
- E. Hearing on appeal: The board shall select a reasonable time and place for a hearing on the appeal. Notice of the hearing date shall be given to the appellant and the city in the same manner as service is to be made under 17-107.3. If the appellant is not the owner of the property in question, such notice may be given to that property owner in the same manner.
- F. The board may affirm, modify or reverse the order or decision appealed from. The decision of the board on an appeal shall be limited to applying this code; and the board may not disregard, vary or modify the code language. Any such decision of the board shall be deemed to be a final administrative order appealable to the courts. The city shall be deemed to be adversely affected and aggrieved by a board decision which modifies or reverses an order or decision of the code official, and the city shall have the right to appeal such a decision to the court. An appeal to court shall stay enforcement proceedings in the same manner as described in sub-section D above.

17-111.2 VARIANCES.

The title of this section is revised to read as set forth above. The content of this section, including subsections 111.2.1 through 111.2.5, is changed to read as follows:

- A. The Property Maintenance Board may, after a public hearing, authorize variances from the requirements of this code.
- B. An application for a variance shall be printed or typewritten, shall be signed by the person requesting the variance, and shall be filed by the owner of the premises with the office of the city manager. This filing must be made within 14 days after any order or decision of the code official was given to a person responsible for compliance with this code in the manner described in Chapter 17-107. Thereafter, it shall be transmitted, along with all pertinent papers, to the members of the Property Maintenance Board. The application shall set forth the particular requirement from which a variance is requested, and shall be on such form as may be prescribed by the code official.
- C. The board shall select a reasonable time and place for a hearing on the variance request. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city not less than 5 nor more than 40 days before the hearing. Such notices shall also be mailed to the variance applicant to the property owner of record, and to owners of other parcels of real estate within 200 feet of any portion of the subject premises.

D. Standards for variances: No variance shall be granted unless the board makes conclusions of fact that:

1. granting the variance will not impair an adequate supply of light or air to adjacent properties;
2. granting the variance will not significantly increase the danger of fire or structural collapse nor significantly impair the health, safety, morals or welfare of the occupants or the public;
3. granting the variance will eliminate peculiar and practical difficulties or undue hardship which would otherwise result upon the owner or operator of the premises if the terms of this code were applied without such variance;
4. granting the variance will not create blight or constitute a blighting influence on adjoining properties, tending to lead to progressive deterioration and downgrading of the neighborhood;
5. granting the variance will not diminish or impair the standards of maintenance in this city, the value of the subject property, or property values in the surrounding area; and
6. strict enforcement of the code requirements would be manifest injustice and would be contrary to the spirit and purpose of this code or contrary to the public interest.

In granting a variance, the board may specify the manner and time within which the variance shall be carried out, and may require other improvements or safeguards or the performance of conditions deemed necessary to secure the intent of this code. A variance decision of the board shall be deemed to be a final administrative order, appealable to the courts. The city shall be deemed to be adversely affected by a board decision granting a variance, and the city shall have the right to appeal such a decision to the court. Any appeal shall stay the effect of the variance decision until the court case is terminated.

17-111.3 FEES FOR APPEALS AND VARIANCES.

The title of this paragraph is changed to read as set forth above. The content is revised to read as follows:

Fees for variances and appeals under this Property Maintenance Code shall be as prescribed by the city manager in the fee schedule authorized by Chapter 153 of the Administrative Code.

17-111.4 PROPERTY MAINTENANCE BOARD.

In the International Code, 111.2 created such a board but that section number has been used to provide for appeals from code requirements. This section provides for the creation and membership of a Property Maintenance Board.

- A. Creation and membership: A Property Maintenance Board is hereby created. It shall consist of 15 persons appointed by the City Council as members, 3 of those members being appointed from persons residing in each of the five districts depicted on the map of the city appended to this code and made a part hereof, marked Appendix B. At the time this Property Maintenance Code is enacted, a Citizens Housing Committee is in existence, having been created under the previous Housing Code of the city. Members of that previous committee shall constitute the original members of the Property Maintenance Board, and that committee is now terminated.
- B. Term of office: The terms of board members shall be for 5 years. Appointments shall be attempted to be made in such a manner that the term of no more than one member from any one district shall expire in any one calendar year. If any member resigns, dies or moves out of the district from which that member was appointed, a replacement member shall be appointed by the City Council for the balance of the unexpired term of office.
- C. Duties, quorum, and voting: The board shall have the duty to hear and decide all appeals and variances filed under this code, and shall also be responsible for authorizing the issuance of a citation by the city when an owner, occupant or agent fails to take remedial action to correct code violations within a reasonable period of time as determined by the Building Commissioner. The three members from each district shall constitute the Property Maintenance Board for the purpose of hearing appeals and variances and authorizing the issuance of citations regarding property in that district. If one or more of those three persons is unable to serve, any one or more of the remaining members of the board may be designated by the chairperson as replacement(s) so as to provide three persons to hear and decide each case. A majority of the full board of 15 members shall select a chairperson. Decisions of the board on any appeal or variance shall be made by a majority vote of the three person panel. Failure to obtain a majority vote to reverse or modify a decision or order appealed from shall constitute affirmation of that order. Similarly, failure to obtain a majority vote to grant a variance shall constitute denial of the variance.
- D. Burden of proof: The person who files an appeal or a request for a variance shall have the burden of proving by a preponderance of the evidence that his appeal or variance should be granted. The board shall have subpoena power to compel attendance of witnesses.

LEGISLATIVE HISTORY: Amended 4200, passed 5/3/93; Ord. 4261, passed 7/18/94.

17-112 FIRE INSURANCE TRUST FUND.

17-112.1 GENERAL MATTERS.

Ohio statutes require the creation of a Fire Insurance Trust Fund. The language explaining the requirements of the fund shall read as follows:

- A. A fire insurance trust fund is to be created in the accounting records of the city. It is to be maintained from all other funds of city money, and is to be administered as a trust fund for the purposes described in the remainder of this section. The director of finance shall administer this trust fund for the purposes specified in Revised Code 3929.86.
- B. In the event of any loss by fire within the City of Oakwood when the amount of said loss agreed to between the named insured or insureds and the company or companies insuring said loss equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure insured, the insurance company or companies shall transfer from the insurance proceeds to the director of finance of the city in the aggregate \$1,000.00 for each \$20,000.00, and each fraction of that amount, of a claim. In the alternative, if at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure, the director of finance shall transfer from the insurance proceeds the amount specified in the estimate. This shall be done in accordance with Revised Code 715.26F.
- C. Such transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the director of finance shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the city has not commenced to remove, repair, or secure the building or other structure.
- D. Upon receipt of proceeds by the city as authorized by this section and by Revised Code 3929.86, the director of finance shall place the proceeds in the fire insurance trust fund to be used solely as security against the total cost of removing, repairing, or securing incurred by the city pursuant to R.C. 715.261 or 17-109 dealing with emergency measures of this code.

When transferring the funds as required by this section, an insurance company shall provide the director of finance with the name and address of the named insured or insureds; and that director shall contact the named insured or insureds, certify that the proceeds have been received by the City of Oakwood and notify them that the following procedures will be followed:

Administration and Enforcement

1. The fund shall be returned to the named insured or insureds when the repairs or removal, or securing of the building or other structure have been completed and the required proof received by the director of finance, if the City of Oakwood has incurred any costs for repairs, removal or securing of the building or other structure, such costs shall be paid from the fund and if excess funds remain, the City of Oakwood shall transfer the remaining funds to the named insured or insureds. Nothing in this code shall be construed to limit the ability of the City of Oakwood to recover any deficiency under Section 715.261 of the Ohio Revised Code.
2. Nothing in this section shall be construed to prohibit the City of Oakwood and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

LEGISLATIVE HISTORY: Amended Ord. 4159, passed 9/21/92; Ord. 4587, passed 7/11/05, effective 8/11/05; Ord. 4621, passed 1/22/07, effective 2/22/07.

CHAPTER 17-TWO DEFINITIONS

- 17-201 General Comments.
- 17-201.3 Terms defined in other codes.
- 17-202 Applied meaning of words and terms.

All the provisions of Chapter 2 of the International Property Maintenance Code (2003) are incorporated by reference so as to apply in the City of Oakwood, except to the extent modified or deleted in this Chapter 17-Two.

17-201 GENERAL COMMENTS.

17-201.3 TERMS DEFINED IN OTHER CODES.

This section is amended to the extent that the first reference for meanings of terms not defined shall be to the Zoning Code of the City of Oakwood. Further, the reference in this International Code section to the building, plumbing or mechanical codes listed in Chapter 8 of the International Code is revised not to refer to that Chapter 8 but instead to the building, plumbing or mechanical codes applicable within the city.

17-202 APPLIED MEANING OF WORDS AND TERMS.

Some of the definitions in this section are revised. Those that are amended are set forth below:

Code official: This is amended to mean the city manager and also any person(s) to whom the city manager may have delegated the responsibility of administering or enforcing all or any portion of this code.

Condemn: This is amended to read "to order to be vacated." Similarly, "condemned" shall mean "ordered to be vacated," and "condemnation" shall be changed to "vacation."

Dwelling unit: The words in this International Code section, "for one or more persons," are changed to "for one family only, as defined in the zoning code."

Inoperable Motor Vehicle: This definition is enacted to state the same meaning as defined under Section 523.01 of Oakwood Codified Ordinances.

Definitions

The following new definitions are hereby added to this Section 17-202:

One-family dwelling: A building containing one dwelling unit, to be occupied by only one family with no more lodgers or boarders than permitted under the Zoning Code of this city.

Two-family dwelling: A building containing two dwelling units, each to be occupied by only one family with no more lodgers or boarders than permitted under the Zoning Code of this city.

Family: This definition is amended to state that this word has the same meaning as defined in the Zoning Code of this city.

Plumbing: This is the plumbing code applicable in the City of Oakwood.

Unlawful premises is defined in 17-108

Unsafe premises is defined in 17-108.

LEGISLATIVE HISTORY: Amended by Ord. 4587, passed 7/11/05, effective 8/11/05.

CHAPTER 17-THREE EXTERIOR AND INTERIOR MAINTENANCE

17-301	Exterior maintenance.	17-302.15	Casualty damage repair.
17-301.3	Vacant structures and land.	17-304	Exterior of structures.
17-302	Exterior property (i.e. open space) areas.	17-304.1	General maintenance standards for exterior of structures.
17-302.4	Weeds.	17-304.14	Insect screens.
17-302.7	Accessory Structures.	17-304.15	Doors.
17-302.8	Motor Vehicles.	17-304.19	Closing of open areas of buildings.
17-302.10	General maintenance standards for exterior property areas.	17-305	Interior of structures.
17-302.11	Obsolete signs.	17-306	Handrails and Guardrails.
17-302.12	Owner responsible for unpaved right-of-way.	17-306.1	General.
17-302.13	Screening or removal of outdoor storage.	17-307	Rubbish and Garbage.
17-302.14	Diseased and dead trees.	17-307.1	Accumulation of rubbish or garbage.
		17-308	Extermination.
		17-308.1	Insect and rat harborage.

All the provisions of Chapter 3 of the International Property Maintenance Code (2003) are incorporated by reference so as to apply in the City of Oakwood, except to the extent modified or deleted in this Chapter 17-Three.

The title of Chapter 3 is amended to read as set forth above for this chapter.

17-301 EXTERIOR MAINTENANCE.

17-301.3 VACANT STRUCTURES AND LAND.

This International Code section is modified by adding the following additional standard for maintenance of vacant structures and premises thereof and vacant land:

The level at which they are maintained shall not be lower than the average standards of maintenance generally used by owners of occupied structures and land throughout this city.

17-302 EXTERIOR PROPERTY (i.e. OPEN SPACE) AREAS.

17-302.4 WEEDS.

This section is amended to allow designated nature areas and to refer to Ohio statutory provisions for the cutting of weeds. For these purposes, the following language is added at the end of this section:

This section shall not preclude land designated by the city under Section 551.02 of the Codified Ordinances as a public park nature area or private lot nature area from being maintained in a natural state.

An alternative procedure for the removal of weeds upon order by the city is set forth in Ohio Revised Code 731.51 through 731.54. The city shall have the option of utilizing those statutory procedures or using the provisions of this code or both.

For purposes of this section of the International Code, grass (excluding decorative grasses) of a height of 8 inches or more shall be deemed a weed, as shall all vegetation constituting a threat to the public health, safety or welfare.

17-302.7 ACCESSORY STRUCTURES.

All garages, including those attached to the principal structure, shall have operating overhead or horizontal doors to provide security for the property within and in the case of attached garages, for the occupants of the principal structure. (Ord. 4594, passed 10/10/05, effective 11/10/05).

17-302.8 MOTOR VEHICLES.

The first sentence of this section is hereby amended to read as follows:

No motor vehicle shall be stored, kept or parked outside on any property unless there is displayed or mounted upon it whatever license is required by Ohio law to permit that vehicle to be used on public streets. For the purpose of this section, the words "motor vehicle" shall have the same meaning as in the Uniform Traffic Laws of the State of Ohio.

17-302.10 GENERAL MAINTENANCE STANDARDS FOR EXTERIOR PROPERTY AREAS.

This is an added section to carry forward into this Property Maintenance Code various requirements from the previous Property Maintenance Code of this city.

All exterior property and premises shall be maintained so as not to cause a blighting problem, not to adversely affect the public health or safety, not to adversely affect premises because that decreases property values and in turn lowers the quality of life in this city, but instead shall be maintained so as to have a positive impact on the premises. Further, such work shall be performed in a manner which is in keeping with the standards of maintenance generally used by owners and occupants throughout this city. Leaves must be raked and disposed of so as to avoid unreasonable accumulations. All poisonous weeds or plants shall be destroyed and removed. All land or dirt shall be maintained so as to be covered with vegetation ground cover, except areas covered by or used for:

- A. buildings or structures;
- B. other substances allowed under the Zoning Code;
- C. gardens or flowerbeds;
- D. construction of improvements;

- E. recreation or outdoor storage uses; or
- F. public area nature parks or private lot nature areas designated by the city under Section 551.02.

17-302.11 OBSOLETE SIGNS.

This is an added section establishing a requirement for removal of obsolete signs. It reads as follows:

All obsolete signs shall be removed.

17-302.12 OWNER RESPONSIBLE FOR UNPAVED RIGHT-OF-WAY.

This is an added section establishing requirements for maintenance of the tree lawn and unpaved portion of the right-of-way. It reads as follows:

For the purposes of this Chapter 17-Three, the words "exterior property" and "premises" shall include the strip of land sometimes referred to as the tree lawn (i.e. the portion of right-of-way between the curb, or the paved street if there is no curb, and the sidewalk) and any other unpaved portion of right-of-way which abuts property of an owner. Accordingly, the owner shall be responsible for causing such unpaved right-of-way to comply with the maintenance requirements of this Chapter 17-Three.

17-302.13 SCREENING OR REMOVAL OF OUTDOOR STORAGE.

This is an added section establishing requirements for the storage of items in the neighborhood and community business districts and residential districts. It reads as follows:

In the neighborhood and community business zoning districts, all storage of materials, goods or products shall be within enclosed buildings or shall be effectively screened from view in a manner subject to the approval of the Planning Commission of this city. Off-street parking of operative vehicles shall be an exception to this requirement.

In residential zoning districts, all outdoor storage for a period exceeding 15 continuous days (with any part of such a day being counted as an entire day) shall be enclosed or effectively screened from view in a manner subject to the approval of the Planning Commission. The storage of such functional items as children's play structures, firewood and operable automobiles and vehicles shall be exempt from this requirement.

If the principal building on any premises has become vacant, portable objects shall not be stored outside on that lot but instead shall be placed within an enclosed structure.

17-302.14 DISEASED AND DEAD TREES.

This is an added section establishing requirements for removal of diseased trees. It reads as follows:

Diseased trees are those with any form of decay or vegetation sickness that can be transmitted to other trees, plus those infected with insects to such an extent as to create a nuisance adversely affecting nearby persons or property. Such trees shall be removed immediately or shall be treated or sprayed to eliminate at once the risk of the decay or vegetation sickness being transmitted to other trees and to remove the insect nuisance situation.

The code official shall determine if a dead tree constitutes a safety hazard because of its proximity to the right-of-way, any building or structure, or to persons who use nearby premises. If the code official decides that a tree constitutes such a safety hazard, it shall be removed at the expense of the owner or operator responsible for maintenance of the premises on which it is located.

17-302.15 CASUALTY DAMAGE REPAIR.

This is an added section establishing requirements for the repair or demolition of casualty damage. It reads as follows:

Within 30 days after casualty damage to any structure or exterior property, the owner shall have taken the following steps:

- A. contracted for repair and restoration of damaged areas and removal of debris; and/or
- B. contracted for the demolition (as regulated by the Building Code of this city) and removal of any portions of the premises not to be repaired and restored, and also for removal of debris in connection therewith; and
- C. arranged for the contract work to be completed within 60 days from the contract date, except to the extent a delay is caused by weather, strikes, acts of God or other matters beyond the reasonable control of the owner and contractor.

The code official may extend these time periods to the extent he deems appropriate, but shall not be required to do so. Time is of the essence in repairing damage quickly so as to avoid detrimental impact upon persons and property.

17-304 EXTERIOR OF STRUCTURES.

The title of this section of the International Code is amended to read as set forth above.

17-304.1 GENERAL MAINTENANCE STANDARDS FOR EXTERIOR OF STRUCTURES.

The title of this International Property Maintenance Code Section 304.1 is amended to read as set forth above. The body of this Section is amended by adding the following material to the end of that section.

Additional standards of maintenance are that the exterior of every structure shall be maintained in high quality, first-class condition so as not to have a negative effect upon the value of the subject property, or upon the value of other property in the neighborhood or the city, not to cause a blighting problem or adversely affect the public health or safety and in accordance with the standards of maintenance generally used by owners and occupants throughout this city.

17-304.14 INSECT SCREENS.

The dates during which screens are to be in place shall be the reverse of the dates during which buildings are required by 17-602.1 and 17-602.2 to have heating facilities available. Accordingly, the dates for screens shall be from May 1st to October 31st.

17-304.15 DOORS.

The reference to guestrooms is deleted from this International Code section so as to eliminate a requirement that guestroom doors must have locks.

17-304.19 CLOSING OF OPEN AREAS OF BUILDINGS.

This is an added section establishing requirements to use fire resistant materials to enclose building openings. It reads as follows:

If any portion of a building formerly open to public view is closed to view through some form of construction materials, the closing shall be made with a fire resistant material which is painted or in some other manner protected from weather and the effects of sunlight.

LEGISLATIVE HISTORY: Amended 4200, passed 5/3/93.

17-305 INTERIOR OF STRUCTURES.

The title of this section of the code is revised to read as above.

17-306 HANDRAILS AND GUARDRAILS.

17.306.1 GENERAL.

This International Code Section is amended by adding the following material to and at the end of the paragraph:

These requirements shall apply to interior but not to exterior stairways, landings and balconies unless they are more than (ten feet) 10' higher than the grade below. The code official may grant an administrative variance from this exterior requirement, on his own motion or on request of the property owner, so as to increase the ten feet (10') height by up to 20%, if the facts are such that the code official makes the same written conclusions of fact that are required by Section 17-111.2 D for variances.

17-307 RUBBISH AND GARBAGE.

17-307.1 ACCUMULATION OF RUBBISH OR GARBAGE.

This section of the International Code is hereby amended by adding the following material at the end of the paragraph:

The interior of every structure shall be free from any undue accumulation of rubbish or garbage so as to avoid detrimental effects on physical or mental health of occupants or users of the premises and to avoid significant adverse impact upon the value of the property since that would, in turn, negatively impact on neighboring properties and the quality of life throughout not only the neighborhood but the City of Oakwood.

17-308 EXTERMINATION.

17-308.1 INSECT AND RAT HARBORAGE.

The title of this portion of the city is revised to read as above. This section of the International Code is hereby amended to read as follows:

All structures shall be kept free from undue insect, rat and rodent infestation, so as to avoid detrimental effects on physical or mental health of occupants or users of the premises and to avoid significant adverse impact upon the value of the property since that would, in turn, negatively impact on neighboring properties and the quality of life throughout not only the neighborhood but the City of Oakwood. All structures in which such accumulations of insects, rats or rodents are found shall be promptly exterminated by procedures accepted within the extermination industry and customarily used in Montgomery County, Ohio, and not contrary to other ordinances of the city or to rules, regulations or orders issued by or for the Oakwood Health District. After extermination, proper precautions shall be taken to prevent reinfestation.

LEGISLATIVE HISTORY: Amended 4159, passed 9/21/92; Amended 4200, passed 5/3/93; Ord. 4587, passed 7/11/05, effective 8/11/05; Ord. 4594, passed 10/10/05, effective 11/10/05.

CHAPTER 17-FOUR **LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS**

17-401	General.	17-404.1	Area for sleeping purposes.
17-401.3	Alternative devices.	17-404.5	Overcrowding.
17-402.2	Common Halls and Stairways.		
17-404	Occupancy limitations.		

All the provisions of Chapter 4 of the International Property Maintenance Code (2003) are incorporated by reference so as to apply in the City of Oakwood, except to the extent modified or deleted in this Chapter 17-Four.

17-401 GENERAL

17-401.3 ALTERNATIVE DEVICES.

The reference in this section to the International Building Code is changed to refer to the Building Code applicable in the City of Oakwood.

17-402.2 COMMON HALLS AND STAIRWAYS.

This International Code section is modified so that its requirements regarding lighting of common halls and stairways apply only during nighttime hours when artificial light is necessary.

17-404 OCCUPANCY LIMITATIONS.

17-404.1 AREA FOR SLEEPING PURPOSES.

This section of the International Code is amended to change 70 square feet to 80 square feet.

In addition, it is further amended to change 50 square feet to 60 square feet and to eliminate the corresponding metric measurement.

17-404.5 OVERCROWDING.

The following sentence is hereby added to and at the end of this International Code section so as to continue previous requirements applicable within this city:

As a requirement superseding the provisions of the minimum occupancy areas described in the table which is part of this section, every dwelling unit shall contain at least 150 square feet of floor space for the first occupant, at least 150 additional square feet of floor space for the second occupant, and at least 100 additional square feet of floor space for each additional occupant.

LEGISLATIVE HISTORY: Amended 4200, passed 5/3/93; Ord. 4587, passed 7/11/05, effective 8/11/05.

CHAPTER 17-FIVE

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS, SWIMMING POOL DRAINAGE

17-502.4 Employees' Facilities.

17-502.4.1 Drinking Facilities.

17-508 Swimming pool drainage.

17-508.1 Method of drainage.

All the provisions of Chapter 5 of the International Property Maintenance Code (2003) are incorporated by reference so as to apply in the City of Oakwood, except to the extent modified or deleted in this Chapter 17-Five.

The title of Chapter 5 is amended to read as set forth above for this chapter.

17-502.4 EMPLOYEES' FACILITIES.

This International Code section is deleted because it would require a bathroom for many separate shops or places of business which do not now have those facilities.

17-502.4.1 DRINKING FACILITIES.

This International Code section is deleted because it would require a drinking facility for many separate shops or places of business which do not now have one.

17-508 SWIMMING POOL DRAINAGE.

17-508.1 METHOD OF DRAINAGE.

This is an added section establishing requirements for the drainage of swimming pools. It reads as follows:

All existing swimming pools that are not connected to a drainage facility approved by the Oakwood Board of Health or to a drainage facility permissible under the Building Code applicable in this city must be modified or operated so as to dispose of water from those pools in the following manner:

- A. Drainage water must be piped to the nearest available storm sewer; or
- B. Drainage water must be disposed of on the zoning lot on which the pool is situated and in such a manner that it does not drain onto public property or upon private property owned by another person.

LEGISLATIVE HISTORY: Amended 4200, passed 5/3/93; Ord. 4587, passed 7/11/05, effective 8/11/05.

CHAPTER 17-SIX **MECHANICAL AND ELECTRICAL REQUIREMENTS**

17-605.2 Receptacles

All the provisions of Chapter 6 of the International Property Maintenance Code (2003) are incorporated by reference so as to apply in the City of Oakwood, except to the extent modified or deleted in this Chapter 17-Six.

17-605.2 RECEPTACLES.

The requirement of this International section that every habitable space in a dwelling contain at least two separate and remote receptacle outlets is hereby amended to eliminate the "remote" standard. Instead, these outlets are to be either:

1. on separate walls, or
2. if on the same wall, are to be at least twelve feet apart, measured horizontally.

LEGISLATIVE HISTORY: Amended 4200, passed 5/3/93; Ord. 4587, passed 7/11/05, effective 8/11/05

CHAPTER 17-SEVEN **FIRE SAFETY REQUIREMENTS**

- 17-701 General requirements.
- 17-701.1 Scope.
- 17-702 Means of egress.
- 17-702.2 Aisles
- 17-702.3 Locked Doors
- 17-704 Fire protection systems.
- 17-704.1 General
- 17-704.2 Smoke Alarms

All the provisions of Chapter 7 of the International Property Maintenance Code (2003) are incorporated by reference so as to apply in the City of Oakwood, except to the extent modified or deleted in this Chapter 17-Seven.

17-701 GENERAL REQUIREMENTS.

17-701.1 SCOPE.

The following sentence is added to and at the end of this International section:

If there is any conflict between the provisions of this Chapter 17-Seven and the Fire Code applicable in the City of Oakwood, the more severe or more restrictive requirements shall apply.

17-702 MEANS OF EGRESS

The fire prevention code referred to in this section shall be the code applicable within the City of Oakwood.

17-702.2 AISLES.

The fire prevention code referred to in the exception part of this BOCA section shall be the code applicable within the City of Oakwood.

17-702.3 LOCKED DOORS.

The building code referred to in this section shall be the code applicable within the City of Oakwood.

Fire Safety Requirements

17-704 FIRE PROTECTION SYSTEMS.

17-704.1 GENERAL

The fire prevention code referred to in this section should be the code applicable within the City of Oakwood.

17-704.2 SMOKE ALARMS.

The building code referred to in this section shall be the code applicable within the City of Oakwood.

LEGISLATIVE HISTORY: Amended by Ord. 4587, passed 7/11/05, effective 8/11/05.

CHAPTER 17-EIGHT RESIDENTIAL RENTALS

17-800	General matters.	17-801	Short-term Rentals Prohibited
17-800.1	Inspection.	17-801.1	Purpose
17-800.2	Access to Unit.	17-801.3	Prohibition
17-800.3	Supplementation of Information Filed with County Auditor Pursuant to Ohio Revised Code § 5323.	17-801.4	Notice of Violation; Time for Performance; Appeals; Variances; Inspections and Penalties are dealt with in other sections of this code.
17-800.4	Notice of violation; time for performance; appeals; variances; inspections and penalties are dealt with in other sections of this code.		

This chapter is being added so as to carry forward into this Property Maintenance Code requirements from the previous Property Maintenance Code of this city.

17-800 GENERAL MATTERS.

17-800.1 INSPECTION

- A. As soon as reasonably practicable after the tenants have vacated a dwelling unit, the commissioner of buildings shall cause an inspection of the dwelling unit and any other areas of the premises available for use by the tenants of that dwelling unit (hereinafter called "accessory property") to be made as described in Chapter 17-One of this Property Maintenance Code.
- B. At the time notice of change of occupancy of any dwelling unit is given, the owner or operator of the dwelling shall complete an inspection form and schedule an appointment for a time during normal business hours in order for the owner or operator to admit the code official or a representative thereof.
- C. The owner or operator of a premise with a rental unit is subject to have the interior of its structures and rental units inspected, at any time, in response to a complaint of an alleged violation of any of the provisions of this Chapter or the provisions of the application of city of Oakwood Codes. For purposes of this provision, a complaint shall be deemed "received" if it is:
 - a. Submitted in writing;
 - b. Includes a description of the real estate or dwelling sufficient for identification;
 - c. Includes the name of the landlord, managing agent, or operator and contact information sufficient to contact the owner, operator, or agent;
 - d. Includes a clear statement of the alleged violation or condition that leads to the belief that a violation exists.

Residential Rentals

- D. The owner of a rental unit shall pay an inspection fee for any interior inspection performed as required by subsection B of this section, except as exempted under E below. The amount of the fee shall initially be \$50.00 per unit inspected, but shall subsequently be reviewed and increased if the City Manager determines it necessary to cover the cost of the inspection.
- E. No fee shall be required for an interior inspection prompted by a complaint submitted under Subsection C unless violations are noted at which time the property owner will be charged an inspection fee as established by subsection D above.
- F. Money collected under this Section shall be used exclusively for rental unit inspection purposes.

17-800.2 ACCESS TO UNIT

A. Access by Owner or Operator

Every occupant of a rental unit shall give, upon proper notice, the owner or operator thereof, or his/her agent or employee, access to any part of such rental unit at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with any lawful notice or order issued pursuant to the provisions of the applicable city of Oakwood Codes.

B. Access by Code Official

The Code Official or his/her duly authorized designee is hereby authorized to conduct inspections of any rental unit within the city of Oakwood in order to perform the duty of safeguarding the health, safety and welfare of the occupants and the public under the provisions of this chapter. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter or the provisions of the Codified Ordinances of the city of Oakwood or whenever the Code Official or his/her duly authorized designee has probable cause to believe that there exists in any rental unit any condition which makes such rental unit in violation of any of the provisions of this Chapter or the provisions of the applicable city of Oakwood codes, the Code Official or his/her duly authorized designee may enter such rental unit at all reasonable times to inspect the same or to perform any duty imposed upon the Code Official by this Chapter or other applicable provisions of the Codified Ordinances of Oakwood. If such rental unit is occupied, the Code Official shall first make a reasonable effort to locate the occupant, giving at least 24-hour notice of intent to inspect the premises and at least 24-hour notice of right to refuse entry. For purposes of Section 17-106 of the Property Maintenance Code, it shall be a violation of Section 17-800 et seq. to willfully refuse to respond to a notice of intent to inspect the premises. It shall not be a violation of any Ordinance of the city of Oakwood to reasonably refuse to permit entry to a Code Official upon notice. After provision of the 24-hour notice of intent to inspect, the Code Official or his/her duly authorized designee shall at such time:

Residential Rentals

1. Identify himself/herself and his/her position;
2. Explain why entry is sought;
3. Explain that the owner/operator or tenant of an occupied rental unit or other person(s) having charge or control of an unoccupied rental unit may refuse, without penalty, entry without a search warrant;
4. Provide documentation of written notice to the owner/operator giving 7-day notice of deficiency. (Such notice shall not be construed to imply that the repairs need to be completed at that time.)

C. Search Warrant

If consent to inspect a rental unit is withheld by any person or persons having the lawful right to exclude, the Code Official or his/her duly authorized designee may apply to a court of competent jurisdiction for a search warrant of the rental unit. No owner/operator or occupant or any person having charge, care or control of a rental unit shall fail or neglect, after presentation of a search warrant, to properly permit entry therein by the Official or his/her duly authorized designee for the purpose of inspection and examination pursuant to this Chapter.

17-800.3 SUPPLEMENTATION OF INFORMATION FILED WITH COUNTY AUDITOR PURSUANT TO OHIO REVISED CODE § 5323

Within fifteen (15) days of mailing of the city of Oakwood's request for tenant information, and within fifteen (15) days after any change of tenant(s) occupying the property, the owner of residential rental property shall submit to the code official, on the form provided, the following information for each tenant occupying each residential rental property registered with the County Auditor pursuant to Ohio Revised Code § 5323:

- a. Each tenant's full name;
- b. Each tenant's relationship, or lack thereof, to any other persons residing in the same dwelling unit;
- c. The date on which each tenant's occupancy commenced; and
- d. A valid telephone number that can be used by the City to contact tenants directly in case of emergency or other problem. (It is not necessary to provide separate telephone numbers for each tenant, so long as at least one telephone number is provided.)

Failure to properly register the property with the County Auditor shall not relieve the owner of the reporting obligation under this section.

17-800.4.1 NOTICE OF VIOLATION; TIME FOR PERFORMANCE;

Other matters regarding notice of violation, time for performance, appeals, variances, inspections, penalties and other aspects of administration are covered in Chapter 17-One of this Property Maintenance Code.

Residential Rentals

17-801 SHORT-TERM RENTALS PROHIBITED

17-801.1 PURPOSE

Council of the city of Oakwood has determined that the short-term rental of residential property is inconsistent with the permanence, established character, density, and tranquility of Oakwood's residential neighborhoods and is potentially detrimental to property values. The purpose and intent of this ordinance is to prohibit short-term rentals to protect and preserve these qualities of Oakwood's residential neighborhoods and to provide for the comfort, safety, and welfare of Oakwood residents.

17-801.2 DEFINITIONS

- A. "Transient Occupancy" means the right to use, occupy or possess, or the actual use, occupancy or possession, of the following, as defined by the Oakwood Zoning Ordinance: a Dwelling Unit, Single Family Dwelling, Two Family Dwelling, or Multiple-Family Dwelling; or a portion of any of the aforementioned; for a period of twenty five (25) consecutive calendar days or less.
- B. "Transient Rental" means the renting, letting, subletting, leasing or subleasing of the following, as defined by the Oakwood Zoning Ordinance: a Dwelling Unit, Single Family Dwelling, Two Family Dwelling, or Multiple-Family Dwelling; or a portion of any of the aforementioned; for Transient Occupancy use.

17-801.3 PROHIBITION

On or after January 1, 2020, no person shall operate, let, list, advertise, or otherwise make available, any residential property in the city of Oakwood for Transient Rental purposes.

17-801.4 NOTICE OF VIOLATION; TIME FOR PERFORMANCE; APPEALS; VARIANCES; INSPECTIONS AND PENALTIES ARE DEALT WITH IN OTHER SECTIONS OF THIS CODE

Other matters regarding notice of violation, time for performance, appeals, variances, inspections, penalties, and other aspects of administration are covered in Chapter 17-ONE of this Property Maintenance Code.

LEGISLATIVE HISTORY: Ord. 3452, passed 10/1/84; Ord. 3465, passed 11/19/84; Ord. 4587, passed 7/11/05, effective 8/11/05; Ord. 4609, passed 7/24/06; Ord. 4616, passed 12/18/06, effective 1/18/07; Ord. 4867, passed 12/10/2018, effective 1/10/2019. Ord. 4889, passed 8/5/2019, effective 9/5/2019.