



**BOARD OF ZONING APPEALS**

**NOTICE OF PUBLIC MEETING**

**Case No.:** PM-20-1  
**Date:** Thursday, July 9, 2020  
**Time:** 6:30 p.m.  
**Place:** City Council Chambers – Civic Center, 300 E. Central Avenue

Notice is hereby given that a public meeting will be held by the City of West Carrollton Board of Zoning Appeals at the Civic Center, 300 East Central Avenue, on Thursday, July 9, 2020, at 6:30 p.m., on amendments to Chapter 158: Property Maintenance Code to achieve consistency with the newest edition of the International Property Maintenance Code.

Interested persons are requested to appear and voice their opinions with respect to this application. *Please note that the Ohio Department of Health's coronavirus requirements will be observed during the meeting, including maximum occupancy and social distancing requirements. It is recommended and encouraged that all persons entering the building wear a face covering while moving about the building. Please do not attend if you are experiencing a fever, cough or flu-like symptoms. Enhanced cleaning and sanitizing protocols are in place for the facility.*

***To ensure proper social distancing protocols, these amendments may alternately be examined on the City of West Carrollton website at <https://www.westcarrollton.org/board-zoning-appeals/> or by visiting the Civic Center. Advance written input is strongly encouraged, and may be sent by email to [plan@westcarrollton.org](mailto:plan@westcarrollton.org) or by mail to City of West Carrollton, Planning & Community Development Department, 300 E. Central Ave., West Carrollton, OH 45449 until 4:30 p.m. of the day prior to the meeting. That input will be provided to the Board of Zoning Appeals during the public hearing and prior to a decision being made.***

If you have questions or need more information, please email [plan@westcarrollton.org](mailto:plan@westcarrollton.org) or call 937-859-5783.

**CITY OF WEST CARROLLTON  
BOARD OF ZONING APPEALS  
WEST CARROLLTON, OHIO**

**RESOLUTION: PM-20-1 RECOMMENDING TO CITY COUNCIL REPEALING CHAPTER 158: PROPERTY MAINTENANCE CODE, AND ADOPTING A NEW CHAPTER 158: PROPERTY MAINTENANCE CODE BASED ON THE 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE AS WELL AS AN UPDATE TO FEES IN CHAPTER 37: GENERAL FEE SCHEDULE.**

**WHEREAS**, Section 158.12 of the Property Maintenance Code authorizes the Board of Zoning Appeals (BZA) to “execute the purpose of” the Property Maintenance Code, and it has been staff’s interpretation that any amendment to the Property Maintenance Code should first be reviewed by the Board of Zoning Appeals and a recommendation made to City Council regarding its adoption; and

**WHEREAS**, the Property Maintenance Code was last updated by Ordinance 3545 on March 11, 2014 and Ordinance 3421 on May 26, 2009; and

**WHEREAS**, the current West Carrollton Property Maintenance Code is based on the 2009 International Property Maintenance Code; and

**WHEREAS**, the City of West Carrollton is proposing an update to Chapter 158: Property Maintenance Code of the Code of Ordinances of the City of West Carrollton based on the 2018 International Property Maintenance Code, and is tailored to meet the needs of the City.; and

**WHEREAS**, the proposed amendments establish updated minimum requirements for the maintenance of existing buildings through model code regulations that contain clear and specific property maintenance and property improvement standards, and this new code is fully compatible and compliant with all State of Ohio model building, electrical, HVAC, plumbing and fire codes; and

**WHEREAS**, staff has found the fee for failing to register a property as a rental under the “Residential Rental Registration & Education Program” an insufficient deterrent whereby several landlords continue to refuse to register, staff proposes instituting a new structured fee schedule as reflected in Exhibit B attached to Resolution PM-20-1; and

**WHEREAS**, notification of the July 9, 2020 meeting of the Board of Zoning Appeals was duly advertised; and

**WHEREAS**, on July 9, 2020, the Board of Zoning Appeals reviewed the proposed update, at which time all people who wished to testify gave their comments; and

**WHEREAS**, approval of the proposed update to Chapter 158: Property Maintenance Code and Chapter 37: General Fee Schedule is in the best interest of the citizens of West Carrollton in preserving and enhancing property values and protecting the public health, safety and welfare.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE CITY OF WEST CARROLLTON, OHIO:**

**SECTION I:** That by virtue of the authority vested in the Board of Zoning Appeals by the City of West Carrollton, the Board of Zoning Appeals does hereby recommend to City Council that existing Chapter 158: Property Maintenance Code be and hereby is repealed and replaced with a new Chapter 158: Property Maintenance Code as reflected in Exhibit A (attached), and amendments to Chapter 37: General Fee Schedule be and hereby are adopted as reflected in Exhibit B (attached).

**SECTION II.** That this recommendation shall be forwarded in writing immediately to City Council for consideration of adoption.

**PASSED this 9<sup>th</sup> day of July, 2020.**

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Chair

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Secretary

**CITY OF WEST CARROLLTON  
BOARD OF ZONING APPEALS  
STAFF REPORT**

**DATE:** June 30, 2020

**CASE NUMBER:** PM-20-1  
Property Maintenance Code Amendments

**APPLICANT:** City of West Carrollton

**SUMMARY OF REQUEST:** Proposal to repeal current Chapter 158: Property Maintenance Code, and adopt a new Chapter 158: Property Maintenance Code based on the 2018 International Property Maintenance Code.

**STATUTORY AUTHORITY**

Section 158.12 of the Property Maintenance Code authorizes the Board of Zoning Appeals (BZA) to “execute the purpose of” the Property Maintenance Code (PMC). It has been staff’s interpretation that any amendment to the PMC should first be reviewed by the BZA and a recommendation made to City Council regarding its adoption.

**PROPOSAL**

Staff recommends the repeal of the existing Chapter 158: Property Maintenance Code, and adopting a new Chapter 158: Property Maintenance Code as identified in Resolution PM-20-1 and “Exhibit A” and “Exhibit B” attached. Currently, the West Carrollton Property Maintenance Code is based on the 2009 International Property Maintenance Code (IMPC). This new code is based on the 2018 IMPC and tailored to meet the needs of the City.

These amendments establish minimum requirements for the maintenance of existing buildings through model code regulations that contain clear and specific property maintenance and property improvement standards. This new code is fully compatible and compliant with all State of Ohio model building, electrical, HVAC, plumbing and fire codes to protect the public health, safety and welfare.

Below is a snapshot of some of the more significant updates to the code. They include but are not limited to:

**158.02 (F) Historic buildings.** Past versions of the Property Maintenance Code have been silent with regard to maintenance of historic buildings. Currently, the code gives no leniency to the application of the rules and regulations towards structures deemed historic by federal, state and local governments. This new section provides the Chief Code Enforcement Officer latitude in inspecting these buildings.

**158.04 (C) Right of entry.** This section as currently written, has been judged by the Law Director to be vague and insufficient. As such, new language is recommended to meet legal requirements regarding searches and seizures.

**158.04 (D) Warrants.** This new section coincides with revised Section 158.04 (C) above whereby, it places the duty upon the property owner or other person having charge, care and control of a building or premises to permit entry by the Chief Code Enforcement Officer once a warrant has been issued.

**158.07 (D) Unauthorized tampering.** This new section provides for a specific penalty for altering, mutilating, tampering, destroying or removing any placard, letter, sign, courtesy tag or placard posted upon any property by the Chief Code Enforcement Officer. There have been many occasions where the aforementioned have been illegally removed and persons have knowingly and unknowingly violated the directive therefore placing them in harms way. This new section gives the city a remedy for prosecution.

**158.08 (A)(5) Dangerous structure or premises.** This new section provides the Chief Code Enforcement Officer criteria for declaring a structure dangerous where none existed before.

**158.08 (F) Authority to disconnect service utilities.** This new section provides the Chief Code Enforcement Officer the authority to order the disconnection of any utility when an emergency exists where disconnection is necessary to eliminate an immediate hazard to life or property, and/or where a structure has been ordered condemned and it is the determination of the Chief Code Enforcement Officer that this action is necessary to protect life or property. There have been cases in the winter when a condemned property's water lines have frozen and broken creating more damage to the property.

**158.10 Stop work order.** This new "stop work order" provision has been created to enable the Chief Code Enforcement Officer to immediately stop work when he/she finds said work being conducted without a permit and/or contrary to code requirements. In the past, this tool was only available to state certified building officials. The International Code Council has determined more often than not it is the Code Enforcement Officer who sees these violations first and can prevent injury or death from occurring.

**158.11 Demolition.** This section has been completely rewritten to address environmental concerns as well as adopting engineering best practices.

**158.14 Definitions.** Numerous updates are proposed to existing definitions and new definitions have been added to this section. Of particular note are new definitions for "Blight", "Historical Building", and "Recreational Vehicle". Updated definitions include "Chief Code Enforcement Officer", "Motor Vehicles" and "Public Nuisance".

**158.16 (D) Weeds.** This section previously titled "Annual notice to cut noxious weeds:

failure and certification costs” has been renamed “Weeds”. Subsection (1) contains new language that is easier to discern, defines what the city standards are, and defines what the State of Ohio considers a “noxious weed”. The rest of the section has been updated to clarify notification requirements as well as assessment certifications.

**158.16 (I) Motor and recreational vehicles.** This section has received a major rewrite to better explain that which shall be considered as being in violation. This revised section now pulls in recreational vehicles where in the past it was silent on that subject. Staff has noted over the past several years that inoperative recreational vehicles have become a problem and this rewrite allows staff the ability to enforce the same violations against RV’s as with cars and trucks. Also, new to this section is a state code compliant means to order an inoperative vehicle towed.

**158.17 Swimming pools, spas and hot tubs.** Due to the recent foreclosure crises, staff has received numerous complaints regarding abandoned pools, spas and hot tubs not being properly maintained whereby, they become a breeding ground for mosquitoes. This new addition to this existing section will provide staff with the proper tools to address this health concern.

**158.43 Fire resistance ratings and 158.44 Fire protection systems.** With the approval of the Fire Department, both these existing sections have been completely rewritten to bring them into conformity with state fire codes.

**158.45 Carbon monoxide alarms and detectors.** “Carbon monoxide alarms and detectors” replaces the current title “Unoccupied, Vacant & Abandoned Structures” which can now be found in the proposed new Public Nuisance Ordinance. This new section requires that Carbon Monoxide (CO) alarm and detection be provided for in accordance with Section 1103.9 of the Ohio Fire Code and Section R315 of the Residential Code of Ohio. Basically, a CO alarm and detector will be required in all residential occupancies.

**158.51 Violations and penalties.** This section under the “Rental Registration & Education Program” directs the user to “Chapter 37, General Fees Schedule” for failing to register a property as a rental. Currently, a one-time fee of \$150 is charged. Staff has found this fee an insufficient deterrent whereby several landlords continue to refuse to register. Staff proposes stiffening the the fee by instituting a structured fee schedule, as follows and as reflected in Exhibit B attached to Resolution PM-20-1:

- 1<sup>st</sup> year failure to register = \$150
- 2<sup>nd</sup> year failure to register = \$350
- 3<sup>rd</sup> year and every year thereafter failing to register - \$500

Also, these fees will automatically increase annually by Cost of Living Adjustment in the fee schedule.

## **RECOMMENDATION**

Staff recommends the Board of Zoning Appeals recommend to City Council approval of the proposed amendment, as reflected in Resolution PM-20-1 and Exhibit A and Exhibit B.

Following the Board of Zoning Appeals decision, the resolution will be transmitted to City Council for final action on the proposal.

SRPT\_PM-20-1\_PMC Amendments

## EXHIBIT A

### Key:

Add text with shading

Delete text shown with strikethroughs

## CHAPTER 158 PROPERTY MAINTENANCE CODE

### **SCOPE AND ADMINISTRATION APPLICATION**

#### **§158.01 GENERAL.**

(A) *Title.* These regulations shall be known as the Property Maintenance Code of the City of West Carrollton, hereinafter referred to as “this code”.

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

(C) *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, removed or repaired to provide a minimum level of health and safety as required herein. ~~Except where hazards to life, limb, sanitation or adjoining properties are involved, nothing in this maintenance code shall require changes in any buildings which were built in full compliance with the applicable codes in force at the time of their construction or alteration, provided such buildings have been properly maintained and used for only such use as originally permitted.~~

(D) *Severability.* If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

#### **§158.02 APPLICABILITY.**

(A) *General.* The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 158.01. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

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

(C) *Application of other codes.* Repairs, additions, or alterations to a structure, building or changes of occupancy, shall be done in accordance with the procedures and provisions of the referenced codes and standards as noted in Section 158.02 (G) codes referenced in Section 150.04. Nothing in this code shall be construed to cancel, modify or set aside any provisions of the West Carrollton Zoning Code.

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

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

(F) *Historic buildings.* The provisions of this code shall not be mandatory for existing buildings or structures designated by the federal government, state or city as historic buildings where such buildings or structures are judged by the Chief Code Enforcement Officer to be safe and in the public interest of health, safety and welfare.

(G) *Referenced codes and standards.* The codes and standards referenced in this code shall be those that are listed in 158.98 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated by exceptions (1)(a) and (1)(b) below. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

(1) *Exception:* Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

(a) *Conflicts.* Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

(b) *Provisions in referenced codes and standards.* Where to the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

(GH) *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 Enforcement Officer official.

(I) *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.

(J) *Other laws.* The provisions of this code shall not be deemed to nullify any provision of local, state or federal law.

### **§158.03 LIABILITY.**

Liability of code enforcement department personnel for any tortuous act will be determined by Ohio courts to the applicable provisions of Chapter 2744 of the Revised Code.

## **ADMINISTRATION AND ENFORCEMENT**

### **§158.04 DUTIES AND POWERS OF THE CODE OFFICIAL.**

(A) *General.* Enforcement of this code shall be this responsibility of the Chief Code Official, and such other appropriate personnel as may be designated by the City Manager. The Chief Code Enforcement Officer is hereby authorized and directed by Section 33.72 of the Codified Ordinances of the City of West Carrollton and the City Manager in the interest of public health, safety, and general welfare to enforce the provisions of this code. The Chief Code Enforcement Officer 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.

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

(BC) *Inspections.* The Chief Code Enforcement Officer, or his/her designee shall make all of the required inspections, or shall accept reports of inspections 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 Enforcement Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority Director of Planning and Community Development.

~~(C)~~ *Right of entry.* The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law. The Chief Code Enforcement Officer, or his/her designee shall have the authority to enter all buildings or upon all premises at all reasonable hours to inspect or investigate or to perform the duties imposed upon the Chief Code Enforcement Officer, or his/her designee by this code. If such building or premises is occupied, the Chief Code Enforcement Officer, or his/her designee shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the Chief Code Enforcement Officer, or his/her designee shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or control of the building or premises and request entry. If entry is refused, or the owner is unable to be located, the Chief Code Enforcement Officer, or his/her designee shall obtain a search warrant and exercise any other remedy provided by law.

(D) *Warrant.* When the Chief Code Enforcement Officer, or his/her designee has obtained a search warrant or other remedy provided by law to secure entry, an owner, the owner's authorized agent or occupant or person having charge, care or control of the building or premises shall not prevent entry to the Chief Code Enforcement Officer, or his/her designee for the purpose of inspection and examination pursuant to this code.

(E) *Identification.* The Chief Code Enforcement Officer as well as his/her designees shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

(F) *Notices and orders.* The Chief Code Enforcement Officer as well as his/her designees shall issue all necessary notices or orders to ensure compliance with this code.

(G) *Department records.* The Chief Code Enforcement Officer shall keep official records of all business and activities of the department division specified in the provisions of this code. Such records shall be retained in the official records as required by the City of West Carrollton records retention policy as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

(H) *Coordination of inspections.* Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one code official or officer of the jurisdiction is involved, it shall be the duty of the code officials or officers involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector-code official or officer from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's code official's or officer's authority to enforce, the inspector-code official or officer shall report the findings to the code official or officer having jurisdiction.

## §158.05 APPROVAL.

(A) *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this code, the Chief Code official Enforcement Officer shall have the authority to grant modifications for individual cases upon application by the owner or owners agent, provided the Chief Code official Enforcement Officer shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the division department files.

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

(C) *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 Enforcement Officer shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

(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 Enforcement Officer shall be permitted to approve appropriate testing procedures performed by an approved agency.

(2) *Test reports.* Reports of tests shall be retained by the Chief Code official Enforcement Officer for the period required for retention of public records under Section 158.04 (G).

~~(3) *Material and equipment reuse.* Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.~~

(D) *Used material and equipment.* The use of used material that meet the requirements of this code for new material is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and approved by the Chief Code Enforcement Officer.

(E) *Approved material and equipment.* Materials, equipment and devices approved by the Chief Code Enforcement Officer shall be constructed and installed in accordance with such approval.

(F) *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.

### **§158.06 VIOLATIONS.**

(A) *Unlawful acts.* It shall be unlawful for a person, ~~firm or corporation~~ business entity however organized, to be in conflict with or in violation of any of the provisions of this code.

(B) *Notice of violation.* The Chief Code official Enforcement Officer, or his/her designee shall serve a notice of violation or order in accordance with Section 158.07.

(C) *Prosecution of violation.* Any person or business entity however organized, failing to comply with a notice of violation or order served in accordance with Section 158.07 shall be ~~deemed guilty~~ charged with of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Chief Code official Enforcement Officer, or his/her designee shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(D) *Violation penalties.* Whoever violates any provision of this code, or fails to comply therewith, or with any of the requirements thereof, shall be ~~guilty of~~ charged according to the provisions set forth in Sections 158.07 (E) and/or 158.99 of the city of West Carrollton Codified Ordinances this code. Each day that a violation continues after proper notice has been served shall be deemed a separate offense.

(E) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises. Assessment of cost incurred by the City for actions taken at the direction of the legal officer to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises shall be recovered pursuant to Section 158.99 (E).

### **§158.07 NOTICES AND ORDERS.**

(A) *Notice to person responsible.* Whenever the Chief Code official Enforcement Officer, and/or his/her designee determines that there has been a violation of this code or has

grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 158.07 (B) and 158.07 (C) to the person(s) responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 158.08 (C).

(B) *Form.* Such notice prescribed in Section 158.07 (A) shall be in accordance with all of the following:

- (1-) Be in writing-;
- (2-) Include a description of the real estate sufficient for identification-;
- (3-) Include a statement of the violation or violations and why the notice is being issued-;
- (4-) Include a correction order with a reasonable compliance time frame utilizing table 158.97 as a guide to make the repairs and improvements required to bring the dwelling unit, premises, building, equipment or structure into compliance with the provisions of this code-;
- (5-) Inform the property owner of the right to appeal-; and
- (6-) Include a statement of the right to file a lien in accordance with Section 158.06 (C).

(C) *Method of service.* Such legal notice shall be deemed to be properly served if a true copy thereof is served: (a) delivered to the owner, occupant, or agent, in person, personally; or (b) sent by certified or registered mail addressed to the owner at the last known mailing address with return receipt requested- by leaving notice with a person of suitable age and discretion at the usual place of residence of the person served; or (c) posted in a conspicuous place in or about the premises affected, by certified mail, or commercial carrier service utilizing any form of delivery requiring a signed receipt, addressed to the owner or other responsible person at the last known address as appearing in the records or databases of the City of West Carrollton, Ohio; or (d) by certified mail, or commercial carrier service utilizing any form of delivery requiring a signed receipt, addressed to the owner at the owners tax mailing address as indicated on the county tax duplicate; or (e) by certified mail, or commercial carrier service utilizing any form of delivery requiring a signed receipt, addressed to the owner or other responsible person at his/her address as determined by an examination of public records of Montgomery County, Ohio or the State of Ohio; or (f) by posting a true copy of the notice in a conspicuous place on the structure or premises to which it relates.

(1) If the registered or certified mail envelope is returned with an endorsement showing that the service was unclaimed, the notice may be served by ordinary mail to the owners last known mailing address. This mailing shall be evidenced by a Certificate-of-Mailing, and service shall be deemed complete on that date of mailing.

(2) When service is perfected by posting notice on or about the premises affected, such posting shall be evidenced by a photograph and a notarized Certificate of Service. Such notice, photograph, and certificate of service shall be sent by ordinary mail to the last known mailing address as evidenced by a certificate of mailing, and service shall be deemed completed on that date.

(3) If service of written notice is unable to be perfected by any of the hereinbefore methods, the City Manager or his/her designee shall cause the notice to be published in a newspaper of general circulation in the city, once each week for two consecutive weeks, and service shall be deemed completed on the second date of publication.

(4) The Chief Code Enforcement Officer, or his/her designee shall complete and have notarized a Certificate-of-Service which shall set forth the name and address of the person served, the manner of service, and the date thereof.

(D) *Unauthorized tampering.* Orders, letters, signs, courtesy tags, placards or seals posted or affixed by the Chief Code Enforcement Officer, or his/her designee shall not be altered, mutilated, tampered with, destroyed or removed without authorization of the Chief Code Enforcement Officer, or his/her designee. Whoever violates this Section shall be guilty of a misdemeanor of the third degree and charge so under §2909.07 (A)(4) of the Ohio Revised Code. Should a violation of this Section create a risk of physical harm to any person, the charge shall be upgraded to a misdemeanor of the first-degree.

(1) *Exception:* With regards to orders, letters or courtesy tags, the owner, owner's agent or person to whom they are directed may remove without the approval of the Chief Code Enforcement Officer or his/her designee.

(DE) *Penalties.* Penalties for noncompliance with orders and notices other than those in Sections 158.07 (D), 158.08 (D)(1), 158.08 (E), 158.10 (D), 158.16 (E)(10), 158.44 (D) shall be as set forth in Section 158.06 (D) & 158.99 of this code.

(EF) *Transfer of ownership.* It shall be unlawful for the owner of any dwelling unit, premises, building, equipment or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit, premises, building, equipment or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Chief Code official Enforcement Officer, or his/her designee and shall furnish to the Chief Code official Enforcement Officer or his/her designee 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.

### **§158.08 UNSAFE STRUCTURES AND EQUIPMENT.**

(A) *General.* When a structure or equipment is found by the Chief Code official Enforcement Officer, or his/her designee 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.

(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.

(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.

(3) *Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the Chief Code Official Enforcement Officer, or his/her designee finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, 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.

(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, or has been declared a public nuisance.

(5) *Dangerous structure or premises.* For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

(a) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction having authority as related to the requirements for existing buildings.

(b) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn, loose, torn, obstructed or otherwise unsafe as to not provide safe and adequate means of egress.

(c) 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.

(d) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural and artificial loads of one and one-half the original design value.

(e) The building or structure, or part of the building or structure 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.

(f) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

(g) 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, squatters, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or unlawful act.

(h) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

(i) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate lighting, ventilation, mechanical or plumbing system, or otherwise, is determined by the Chief Code Enforcement Officer, or his/her designee to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.

(j) Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical systems, fuel connections, mechanical system, plumbing system or other cause, is determined by the Chief Code Enforcement Officer, or his/her designee to be a threat to life or health.

(k) Any portion of a building remains 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 a building or portion thereof as an attractive nuisance or hazard to the public.

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

(C) *Notice.* Whenever the Chief Code official Enforcement Officer, or his/her designee 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, **owner's authorized agent** or the person or persons responsible for the structure or equipment in accordance with Section 158.07 (C). 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 158.07 (B).

(D) *Placarding.* ~~Upon failure of the owner or person responsible to comply with the notice provisions within the time given, T~~ the **Chief Code official Enforcement Officer, or his/her designee** shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard. **Any owner or any person who moves, defaces, damages, or destroys a placard without the approval of the Chief Code Enforcement Officer, or his/her designee shall be charged under §2909.07 (A)(4) of the Ohio Revised Code a misdemeanor of the third degree. Should a violation of this section create a risk of physical harm to any person, the charge shall be upgraded to a misdemeanor of the first degree.**

(1) *Placard removal.* The **Chief Code official Enforcement Officer, or his/her designee** shall remove the condemnation placard ~~whenever~~ **once** the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who **moves, defaces, damages, or destroys a** ~~defaces or removes a condemnation placard~~ without the approval of the ~~code official~~ **Chief Code Enforcement Officer, or his/her designee** shall be subject to the penalties provided by this code.

(E) *Prohibited occupancy.* Any occupied structure, **building or premises** condemned and placarded by the **Chief Code official Enforcement Officer, or his/her designee** shall be vacated as ordered by the ~~code official~~ **Chief Code Enforcement Officer, or his/her designee**. Any person who ~~shall~~ **enters or occupies** a placard premises or ~~shall~~ **operates** placarded equipment, and any owner, **owner's authorized agent** or any person responsible for the premises who ~~shall let~~ **allows** anyone **enter or** occupy a placarded premises or operate placarded equipment shall be ~~liable for the penalties provided by this code~~ **charged under §2921.31 of the Ohio Revised Code a misdemeanor of the second degree. Should a violation of this section create a risk of physical harm to any person, the charge shall be upgraded to a felony of the fifth degree.**

(F) *Authority to disconnect service utilities.* The **Chief Code Enforcement Officer** shall have the authority to authorize and order the disconnection of utility services to a building, structure or system regulated by this code and the referenced codes and standards set forth in §158.02 (G) in the case of emergency where necessary to eliminate an immediate hazard to life or property, or when a building, structure or system has been ordered condemned and it is the judgement of the Chief Code Enforcement Officer that this action is necessary to protect life or property, or where such utility connection has been made without approval. In cases where either the electrical and/or gas service to a structure or building has been discontinued, the Chief Code Enforcement Officer shall order the water service shut-off at the curb stop so to protect said structure or building from damage due to broken or frozen pipes. The Chief Code Enforcement Officer shall notify the servicing utility and, whenever possible, the owner or owner's authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If the Chief Code Enforcement Officer, or his/her designee is unable to make notification prior to disconnection, the owner, owner's authorized agent or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

(G) *Entry Authorization.* An entry authorization to abate unsafe and/or unfit conditions shall only be issued to the owner or owner's authorized agent. Entry authorizations may be issued to other persons only upon receipt of a notarized affidavit from the owner or owner's authorized agent granting permission to the other person(s) to enter on behalf of the owner to abate such unsafe and/or unfit conditions. Authorization extensions may be issued at the discretion of the Chief Code Enforcement Officer, and/or his/her designee. An entry authorization shall contain the following:

- (1) the date when the authorization was issued;
- (2) the address of the condemned structure or building;
- (3) the condemnation order number;
- (4) the name(s) of the person(s) being granted permission to enter;
- (5) the date and time the person(s) may enter the condemned structure or building;
- (6) a list of what actions are to be completed to bring the structure or building into compliance with the order;
- (7) a statement advising the entering person(s) of the legal ramifications should they enter at times other than listed within the authorization;
- (8) a statement advising the entering person(s) of the legal ramifications should they be found inside the structure not actively completing the abatement;
- (9) the date and time upon which the authorization expires; and
- (10) signature line for the owner, owner's authorized agent or other person and city representative.

#### **§158.09 EMERGENCY MEASURES.**

(A) *Imminent danger.* When, in the opinion of the Chief Code Enforcement Officer, or his/her designee, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Chief Code Enforcement Officer, or his/her designee is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Chief Code Enforcement Officer, or his/her designee shall ~~cause to be posted~~ at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any

person to enter such structure except with the approval of the Chief Code Enforcement Officer, his/her designee for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same. Any person who enters or occupies a premises placarded with a notice or operates equipment placarded with a notice, and any owner or any person responsible for the premises who lets anyone enter or occupy a premises placarded with a notice or operate equipment placarded with a notice without authorization of the Chief Code Enforcement Officer, or his/her designee shall be charged under §2921.31 of the Ohio Revised Code a misdemeanor of the second degree. Should a violation of this section create a risk of physical harm to any person, the charge shall be upgraded to a felony of the fifth degree. Any person who moves, defaces, damages, or destroys a placard without the approval of the Chief Code Enforcement Officer or his/her designee shall be charged under §2909.07 (A)(4) of the Ohio Revised Code a misdemeanor of the third degree. Should a violation of this section create a risk of physical harm to any person, the charge shall be upgraded to a misdemeanor of the first degree.

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

(C) *Closing streets.* When necessary for public safety, the Chief Code Enforcement Officer 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.

(D) *Emergency repairs.* For the purposes of this section, the Chief Code Enforcement Officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(E) *Costs of emergency repairs.* Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs, including an administrative fee as specified in Chapter 367, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton.

(F) *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Board of Zoning Appeals, be afforded a hearing as described in this code.

#### **§158.10 PUBLIC NUISANCE DECLARATION PROCESS STOP WORK ORDER**

(A) *Abatement notice Authority.* Whenever the City Manager or his/her designee determines that there has been a violation of any provision of 158.14(F)(33), in the city, he/she shall give legal notice of such violation to the person or persons responsible therefor, and require compliance with the ordinance, as hereinafter provided Whenever the Chief Code Enforcement

Officer, or his/her designee finds any work regulated by this code being performed in a manner contrary to the provisions of this code, without approval as required by the Ohio Building Code, Residential Code of Ohio, Ohio Fire Code, City of West Carrollton Zoning Code, Ohio Mechanical Code, Energy Conservation Code of Ohio, Ohio Fuel Gas Code, Ohio Plumbing Code, and NFPA 70 or the City of West Carrollton Public Works Code, Chapter 152: Subdivision Code, Chapter 153: Sign Code, or Chapter 156: Flood Damage Prevention Code in an unapproved dangerous or unsafe manner, the Chief Code Enforcement Officer, or his/her designee is authorized to issue a stop work order.

~~(1) Issuance of such notice shall be as set forth in Section 158.07. The aforesaid notice shall state, in brief, the findings of the above officer or officers of the city with respect to the existence of a public nuisance, as defined in 158.14(F)(33) or otherwise as defined in the West Carrollton Code of Ordinances, and shall further state that unless the owner or owners thereof shall cause the abatement of the public nuisance within 30 days after the service of the notice, the same will be abated by the city at the expense of the owner or owners. The owner or owners may at any time after receipt of the notice make a request in writing or in person to the City Manager or his/her designee, to be furnished with a written list of the items which are alleged to constitute the public nuisance and which are alleged to be in need of repair and/or replacement, and/or removal.~~

(B) *Remedy Issuance.* ~~The owner or owners may make immediate application in writing or in person to the City Manager or his/her designee for a building permit to undertake the repair or replacement of items alleged to constitute the public nuisance. The City Manager or his designee, upon receiving the complete plans and specifications covering the repairs or replacements, indicating abatement of the nuisance conditions and in conformity with the Ohio Building Code, the Ohio Residential Code, or the National Electrical Code shall, upon approval of the plans and specifications, cause a building permit to be issued to the owner or owners. The City Manager or his/her designee may grant more than 30 days to the owner or owners in which to effect the repairs and/or replacement and/or removal, if there appears to be a bona fide intention to abate the nuisance and good cause for a reasonable delay is shown to exist. A stop work order shall be issued as set forth in Sections 158.07 (B) and (C) of this code and shall be given to the owner, owner's authorized agent, or to the person(s) doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.~~

(C) *Hearing Emergencies.* ~~The owner or owners may, within 14 days after receipt of the notice, make a demand in writing to the Board of Zoning Appeals for a hearing on the question of whether in fact a public nuisance, as defined in section 158.14(F)(33), exists and/or whether more than 30 days should be granted to the owner or owners to abate the nuisance. The hearing shall be held within reasonable time following receipt of the written demand and at least two days' notice of the hearing shall be given to the owner or owners. The hearing shall be conducted by the Board of Zoning Appeals. A majority of the members of the Board Zoning Appeals must concur that a public nuisance, as defined by 158.14(F)(33), exists before enforcement of the abatement is carried out. A majority of the Board of Zoning Appeals may amend or modify the notice and/or order, or extend the time for compliance by the owner. A copy of the decision and order of the Board of Zoning Appeals shall be promptly served upon the owner or owners in the manner provided by section 158.07. The decision of the Board of Zoning~~

Appeals shall be final and conclusive, unless the owner or owners shall file, within ten days after the decision is rendered, an appeal to a court of competent jurisdiction. Otherwise, the same shall become final and conclusive at the termination of said ten-day period. When an emergency exists, the Chief Code Enforcement Officer, or his/her designee shall not be required to give written notice prior to stopping work.

(D) ~~No restriction on authority~~ *Failure to comply*. This chapter shall not be deemed to be a limitation or restriction on the authority of any department, division, officer, official, or employee of the city, but shall be deemed an enlargement of any authority existing by virtue of the statutes of the state, or any ordinance hereto enacted by the Council. Any person who continues any work after having been served with a stop work order, except such work as the person is directed to perform to remove such violation or unsafe condition, shall be charged under §2921.31 of the Ohio Revised Code a misdemeanor of the second degree. Should a violation of this section create a risk of physical harm to any person, the charge shall be upgraded to a felony of the fifth degree.

### **§158.11 DEMOLITION.**

(A) *General*. The Chief Code official Enforcement Officer shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the Chief Code official Enforcement Officer's judgment is so old, deteriorated, dilapidated or has been declared a Public Nuisance, or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option if in the opinion of the owner, such structure is capable of being made safe and sanitary by repair and renovation, said owner shall enter into a compliance agreement with the City whereby, the owner shall agree to complete the repairs and renovation in a time period not to exceed thirty (30) days of receipt of notice to demolish. The compliance agreement shall include a statement that failure upon the owner to fulfill the terms of the agreement may result in the City commencing abatement by means of demolition; or where there has been a cessation of normal construction of any structure for a period of more than two years six (6) months, to demolish and remove such structure.

(B) *Notices and orders*. All notices and orders shall comply with Section 158.07.

(C) *Failure to comply*. If the owner of a premises fails to comply with a demolition order or compliance agreement within the time prescribed, the Chief Code official Enforcement Officer shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. The Chief Code Enforcement Officer may upon request of the owner extend the time limit outlined in the compliance agreement as specified in subsection (A) above provided upon inspection by the Chief Code Enforcement Officer, or his/her designee that significant improvement has been made and is continuing to be made in abating the nuisance structure. Extensions in time shall be limited to thirty (30) day increments.

(D) *Salvage materials.* When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of 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.

(E) *Permit required; Disconnection of utilities.*

(1) No person shall demolish any building or structure without securing a permit from the City of West Carrollton Planning and Building Community Development Department.

(2) As a condition of receiving a demolition permit, the owner, or owner's authorized agent or person in control of a building or structure to be demolished shall notify, in writing, the appropriate utilities or public authorities serving the building or structure regarding the person's intentions to be demolished the building or structure and request that the utilities be terminated. Such notice shall include a request that the utilities be disconnected seven days prior to demolition. The owner, or owner's authorized agent or person in control of the building, or structure to be demolished, or the utility company, shall provide evidence to the City of West Carrollton Planning and Building Community Development Department that the utilities have been discontinued terminated. The A permit will shall not be issued until all proper verifications has have been received. Proof of verification that services have been discontinued terminated can be found on the application for a demolition permit.

(F) *Bond or other surety required.* Prior to the issuance of a demolition permit, the owner, or owner's authorized agent or person in control of the property subject to demolition may be required to post with the City a performance bond, or other surety approved by the City Manager, or his/her designee to assure the City that the demolition work will proceed as permitted to its conclusion. The value of the surety shall not exceed the cost associated with the demolition and site restoration. The terms of the surety shall provide that the City may retain or claim the surety proceeds if the permit holder fails to perform the demolition activities in accordance with the permit granted. The value of the surety may be reduced in the course of the demolition work, at the sole discretion of the City Manager, if in the estimation that the City Manager, sufficient surety remains to assure completion of the demolition and site restoration activity.

(G) *Site General conditions.*

(1) During the course of the demolition activity the owner, agent or person in control of the property subject to the demolition shall take steps to ensure the safety of the general public. The proposed steps shall be in compliance with generally accepted building industry safety practices as may be reflected in building codes applicable in the City and State of Ohio and in standards on file in the office of the Building Department for construction site safety

measures. The owner shall adhere to the following codes, standards and general conditions that apply during the demolition process:

(2) Following the completion of demolition work, the owner, agent or person in control of the property subject to the demolition activity shall provide for the restoration of the site so as to address safety and nuisance concerns.

(a) All sites shall be brought to a level or other grade determined to be appropriate by the City Manager or his/her designee, and in compliance with Section 156.33—156.40 Storm Water Runoff, Soil Erosion and Sedimentation Control. The owner shall install a silt fence to protect against sediment run-off, and to protect all catch basins and storm drains from sediment contamination. If storm lines and structures become contaminated or filled with silt or debris during demolition, the permit holder shall have the lines and structures cleaned and videotaped prior to final acceptance Ohio Building Code (OBC);

(b) City of West Carrollton Property Maintenance Code (PMC);

(c) Regional Air Pollution Control Agency (RAPCA);

(d) Ohio Environmental Protection Agency (OEPA);

(e) Dayton Montgomery County Public Health Department (DMCPH);

(f) Ohio Department of Health (ODH);

(g) Occupational Safety and Health Administration (OSHA); and

(h) any other local, state, or federal code or requirement not previously mentioned regarding the demolition of structures.

(2) The following general conditions shall be adhered to during the demolition process:

(a) All surface irregularities, wells, basements, cellars, sidewalks, vaults or coal chutes remaining after demolition shall be filled with clean hard fill and compacted consistent with City standards on file in the office of the Planning and Building Department. The owner shall be required to demolish and remove all above and below grade elements to the satisfaction of the city. Burning of structures to be demolished shall not be permitted. The use of explosives for demolition purposes may be permitted but only upon receiving prior approval of the City and any State and/or Federal regulatory agency who regulates such activity.

(b) All underground storage tanks shall be removed and shall be filled with clean hard fill and compacted consistent with City standards on file in the office of the City Planning and Building Department. When required, all asbestos containing material (ACM) shall be properly removed and disposed of in accordance with any and all RAPCA, DMCPH, OEPA

and ODH regulations prior to the commencement of demolition activities. No permit will be issued until such verification has been received by the City stating that all known ACM has been properly abated and disposed of.

(cd) The party securing the demolition permit shall provide for the disposal of the debris associated with the demolition and/or rehabilitation work. The debris must be placed in an appropriate container for removal by a private contractor, or another arrangements shall be made for the disposal of the debris on at least a weekly basis. No property owner or holder shall permit the non-containerized accumulation of demolition debris on any property in the City for a period of seven calendar days. All debris and material associated with the demolition work must be removed from the property and properly disposed of in accordance with RAPCA, OEPA, DMCPHD and ODH regulations.

(de) All sanitary sewer laterals, and water services that serve the subject building or structure must be effectively abandoned, and plugged at the main line, or as may be required by the City Manager or his/her designee in accordance with City regulations.

(ef) The contractor shall provide positive drainage to eliminate ponding within the site. Should sediment issues arise, the owner shall be required to complete the following:

(i) Install a sediment fence so to contain all sediment on-site;

(ii) Inspect the sediment controls weekly and after any rain event;

(iii) Maintain the sediment controls by removing excess sediment;

(iv) Maintain silt controls around all catch basins and the site and immediately adjacent to the site; and

(v) Maintain streets and sidewalks free of dirt, mud and debris as a result of the demolition process. Any dirt, mud and debris tracked onto public streets shall be removed immediately. Failure to do so may result in the City taking such corrective action to maintain the streets and sidewalks free of dirt, mud and debris caused by the demolition activity. All costs involved will be charged against the general contractor or permit holder or property owner. Also, the general contractor, permit holder or property owner may be charged under City ordinance 134.04.

(fg) The contractor shall grade lot to match surrounding grade elevations, and to result in no apparent low or high areas. All areas to be seeded shall be free of rock larger than 1 inch and other foreign material and shall be satisfactorily shaped and finished. Hand raking will be required if machines do not provide results equivalent to hand raking. The owner shall fill holes, pits, and excavations generated as a result of demolition operations. The following referenced standards shall be employed for the compaction of said fill:

(i) ASTM D698 – (Standard Proctor) Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort; or

(ii) ASTM D 2167 – Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method; 2008; or

(iii) ASTM D 2922 – Standard Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth); 2005; or

(iv) ASTM 3017 – Standard Test Method for Water Content of soil and Rock in Place by Nuclear Methods (Shallow Depth); 2005; or

(v) State of Ohio Department of Transportation (ODOT), Construction and Materials Specifications, 2012; or

(vi) State of Ohio Department of Transportation Supplement 1015 Compaction of Unbound Materials.

(gh) ~~The party securing the demolition permit shall apply sod or grass seed to address soil erosion control. The City Manager or his/her designee may require that straw or mulch material be placed on the site that is seeded to prevent erosion and enhance the likelihood of successful growth. The City manager or his/her designee will inspect all seeded areas no earlier than six (6) months and no later than twelve (12) months after final seeding. For any areas identified without a uniform density of at least seventy (70) percent grass cover, repair seeding and mulching or inter-seeding shall be performed as specified in the ODOT Construction and Material Specification Manual Section 659.~~ The owner shall also fill holes, pits, and excavations as follows:

(i) Fill using unfrozen materials; and

(ii) Utilize general fill in successive horizontal loose lifts; and

(iii) Compact general fill in maximum 8 inch lifts to a minimum 95% maximum dry density as determined by ASTM D-698 (Standard Proctor). If using sand, gravel, or unbound materials, use ODOT Supplement 1015 for compaction requirements; and

(iv) Maintain optimum moisture content of fill material to attain required compaction density. Soils shall be aerated or wetted to condition them to within 3 percent of optimum moisture content prior to compaction to within 6 inches of final grade; and

(v) Employ a placement method that does not disturb or damage other work; and

(vi) Grade entire site to match surrounding, undisturbed grade elevations, and grade to drain, all to the satisfaction of the City; and

(vii) Establish a smooth ground surface upon which grass seed can be sown; and

(viii) Ensure all areas to be seeded shall be free of rock larger than 3 inch and other foreign material and shall be satisfactorily shaped and finished. Hand raking will be required for areas if machines do not provide results equivalent to hand raking.

(h) The owner shall be required to fertilize and seed filled, disturbed, and/or barren areas as follows:

(i) The reference standard for this subsection shall be the State of Ohio Department of Transportation (ODOT), Construction and Materials Specifications, 2012; and

(ii) Water utilized in the fertilizing and seeding process shall be clean, fresh, and free of substances or matter that could inhibit vigorous growth of grass; and

(iii) Prior to fertilizing and seeding verify that prepared soil base is ready to receive the work; and

(iv) Fertilizer shall be in accordance with ODOT Item 659.04. Apply fertilizer in accordance with manufacturer's instructions. Apply after smooth raking of top soil and prior to roller compaction. Do not apply fertilizer at same time or with same machine as will be used to apply seed. Mix thoroughly into upper 2 inches of top soil. Lightly water to aid the dissipation of fertilizer; and

(v) Seed mixture type and application shall be in accordance with ODOT Item 659, Seeding and Mulching (Roadside Mixture). Do not seed areas in excess of that which can be mulched on the same day. Do not sow immediately following rain, when ground is too dry, or during windy periods; and

(vi) Mulch type and application shall be in accordance with ODOT Item 659; and

(vii) Water to prevent grass and soil from drying out; and

(viii) Control growth of weeds. Apply herbicides in accordance with manufacturer's instructions. Remedy damage resulting from improper use of herbicides; and

(ix) Immediately re-seed areas that show bare spots; and

(x) Protect seeded areas with warning signs during maintenance period. The City will inspect all seeded areas no earlier than six (6) months and no later than twelve (12) months after final seeding. For areas identified without a uniform density

of at least 70% grass cover, the owner will be required to repair deficient areas identified by such inspection.

(H) *Time limit for permit.* The party receiving the demolition permit must complete the demolition activity within six (6) months from the receipt of the permit or such other time period as designated by the Chief Code Enforcement Officer. The time limit may be extended at the discretion of the Chief Code Enforcement Officer City Manager, or his/her designee. The petitioner must provide evidence to show that extenuating circumstances prohibited the completion of the demolition work in the six (6) month period.

(I) *Demolition permit fee.* The demolition permit fee shall be as set forth in Chapter 367, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton.

(J) *Traffic maintenance and protection.* No closure of streets, highways, sidewalks, or other public facilities shall occur without the expressed written consent of the City.

(K) *Work hours.* No work related to demolition shall be conducted between the hours of 8:00 p.m. to 6:00 a.m., weekends, and/or holidays unless approved by the Chief Code Enforcement Officer, or his/her designee.

#### **§158.12 RIGHT TO APPEAL**

(A) *Board of Zoning Appeals.* In order to execute the purpose of this code, the Board of Zoning Appeals, hereafter referred to as the Board, shall have the following duties:

(1) To decide appeals where it is alleged that there is an error in any interpretation, judgment, determination, or decision made by the Chief Code Enforcement Officer, or his/her designee in the administration or enforcement of this Property Maintenance Code. Filing of an appeal shall stay further enforcement action pursuant to the order or notice being appealed until the appeal is heard by the Board and a written decision issued.

~~(2) To grant variances from the provisions of this code to provide reasonable time for work required for compliance. Variances may be granted only if all of the following apply:~~

~~(a) That such variance shall not allow for long term noncompliance with the provisions of the code;~~

~~(b) That such variance will vary only a minimum from the literal provisions of the ordinance with respect to sanitation, safety and rehabilitation;~~

~~(c) That undue hardship is clearly demonstrated with respect to the cost or scheduling of improvements; and~~

~~(d) That such variance would not permit the creation or continuation of a public nuisance.~~

(B) *Hearings.* Any person affected by a notice of violation, order, revocation or denial of a permit which has been issued in connection with the enforcement of any provision of this

code may request and shall be granted a hearing on the matter before the Board, of Zoning Appeals provided that such person shall file in the office of the Chief Code official Enforcement Officer a written petition requesting such hearing and set forth the name, address and phone number of the petitioner and a brief statement of the ground for such a hearing or for the mitigation of any item appearing on any notice, order, revocation or denial of a permit of the Chief Code official Enforcement Officer. Such petition shall be filed within ten (10) working days after receipt of the notice, and order, revocation or denial of permit. Upon receipt of such a petition, the Code Appeals Board shall set a time and place for hearing and shall give the petitioner written notice thereof. The hearing shall be commenced within a reasonable time after a petition has been filed. In case of an administrative appeal or variance being requested for an emergency order of the Chief Code official Enforcement Officer, the Board shall schedule a hearing within ten (10) working days of the filing of a petition for such hearing. At such hearing the petitioner shall be given an opportunity to be heard and to show cause, why any item appearing on such notice and order should be modified or withdrawn. The failure of the petitioner or his/her representative to appear and state his case at such hearing shall have the same effect as if no petition were filed.

(1) *Findings.* After a hearing, the Board shall sustain, modify or withdraw any items appearing on the notice and order by majority vote, depending upon its findings as to whether the provisions of this Chapter have been complied with, and the petitioner and the Chief Code official Enforcement Officer shall be notified in writing of such findings.

(2) *Record.* The proceedings at such hearings, including the findings and decisions of the Board and reasons therefore, shall be summarized and reduced to writing and entered as a matter of public record in the office of the Chief Code official Enforcement Officer. Such record shall also include a copy of every notice and order issued in connection with the matter.

(3) *Appeal of decision.* Appeals from the Board shall be to the Montgomery County Court of Common Pleas, as provided by the state statutes.

### **§158.13 PROPERTY MAINTENANCE RE-INSPECTION FEE.**

A re-inspection fee as set forth in Chapter 376, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton shall be instituted for any re-inspection subsequent to the first inspection, and shall be paid by the owner, owner's authorized agent, tenant or person responsible for correction of violations of this Chapter. Notice shall be accompanied by a statement of the amount cost incurred, and in the event the same is not paid within thirty (30) calendar days after the mailing of the notice, then such amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected.

## **DEFINITIONS**

### **§158.14 DEFINITIONS, GENERAL.**

(A) *Scope.* Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this Chapter.

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

(C) *Terms defined in other codes.* Where terms are not defined in this code and are defined in the codes referenced in ~~150.01~~ **Section 158.98**, such terms shall have the meanings ascribed to them as in those codes.

(D) *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.

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

(F) *General definitions.*

**ANCHORED.** Secured in a manner that provides positive connection.

(1) **APPROVED.** Approved by the **Chief Code official Enforcement Officer.**

**APPROVED PAVED SURFACE.** Shall be asphalt, concrete, or paver brick and shall encompass the entire footprint of the vehicle stored, placed or allowed to remain upon said approved paved surface.

**AUTHORITY HAVING JURISDICTION.** Shall be the City of West Carrollton.

(2) **AUTOMOBILE PARTS.** Any portion or part of any motor-driven vehicle as detached from the vehicle as a whole.

(3) **BASEMENT.** That portion of a building which is partly or completely below grade.

(4) **BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

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

**BLIGHT.** Shall mean:

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

(a) A structure or building that is dilapidated, unsanitary, unsafe, or vermin infested and that because of its condition has been designated by the Chief Code Enforcement Officer, or his/her designee as unfit for human habitation or use;

(b) The property poses a direct threat to the 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 market 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 be reasonably be corrected through the City of West Carrollton Zoning Code:

(a) Dilapidation and deterioration;

(b) Age and Obsolescence;

(c) Inadequate provisions for ventilation, light, air, sanitation, or open spaces;

(d) Unsafe and unsanitary conditions;

(e) Hazards that endanger lives or property by fire or other causes;

(f) Non-compliance with this code, Ohio Building Code, Residential Code of Ohio, Ohio Fire Code, West Carrollton Zoning Code, or West Carrollton Property Maintenance Code;

(g) Nonworking or disconnected utilities;

(h) Vermin infestation;

(i) is vacant or contains an abandoned structure or building;

(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 and/or recreational vehicles improperly stored;

(n) An accumulation of litter; and/or

(o) Is unsightly and/or unkept.

**CITY. The City of West Carrollton.**

(6) **CLEAN HARD FILL.** Construction and demolition debris which consists only of reinforced or non-reinforced concrete, brick, block, tile and/or stone which can be re-utilized as construction material. Brick in clean hard fill includes but is not limited to refractory brick and mortar. Clean hard fill does not include materials contaminated with hazardous wastes, solid wastes, or infectious wastes.

(7) **CHIEF CODE OFFICIAL ENFORCEMENT OFFICER.** Shall be the City Manager or his/her designee for whom is charged with the administration and enforcement of this code as prescribed in Section 33.72 of the Codified Ordinances of the City of West Carrollton.

(8) **CONDEMN.** To adjudge unfit for occupancy.

(9) ~~**CONSTRUCTION AND DEMOLITION DEBRIS.** Those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. "Construction and demolition debris" does not include materials identified or listed as solid wastes, infectious wastes, or hazardous wastes pursuant to Chapter 3734 of the Revised Code and rules adopted under it; or materials from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag; or reinforced or non-reinforced concrete, asphalt, building or paving brick, or building or paving stone that is stored for a period of less than two years for recycling into a usable construction material. For the purpose of this definition, "materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure", are those structural and functional materials comprising the structure and surrounding site improvements, such as brick, concrete and other masonry materials, stone, glass, wall coverings, plaster, drywall, framing and finishing lumber, roofing materials, plumbing fixtures, heating equipment, electrical wiring, and components containing no hazardous fluids or refrigerants, insulation, affixed carpeting, asphaltic substances, metals incidental to any of the above, and weathered railroad ties and utility poles. "Materials resulting from the alteration, construction, destruction, rehabilitation, or repair" do not include materials whose removal has been required prior to demolition, and materials which are otherwise contained within or exist outside the structure such as solid wastes, yard wastes,~~

furniture and appliances. Also excluded in all cases are liquids including containerized or bulk liquids, fuel tanks, drums and other closed or filled containers, tires and batteries.

**COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS.** The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspector, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); posting(s); recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by the Code Official, the governing body or Board of Zoning Appeals.

~~(10)~~ **CULTIVATE.** To loosen or dig (soil) around growing plants.

**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 loss effectiveness.

~~(11)~~ **DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

~~(12)~~ **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.

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

~~(13)~~ **EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

~~(14)~~ **EXTERMINATION.** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

~~(15)~~ **GARBAGE and OFFAL.** All refuse and waste of animals, fish, fowl, fruit, and vegetable matter, and other material or materials so designated by the Department of Health of Montgomery County or the State of Ohio, liquefied or otherwise, which accumulated in the use and preparation of food for the table, that has been discarded and abandoned and is no

longer of value to the owner for ordinary purposes of domestic consumption and also includes all refuse arising from the dealing in or storing of the substances.

~~(16)~~ **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.

~~(17)~~ **HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, **garages, sheds,** storage or utility spaces, and similar areas are not considered habitable spaces.

**HISTORICAL BUILDING.** Any building or structure that is one or more of the following:

(1) Listed or certified as eligible for listing, by the State Historical Preservation Officer or keeper of the National Register of Historical Places in the National Register of Historical Places.

(2) Designated as historical under an applicable state or local law.

(3) Certified as a contributing resource within a National Register or state or local designated historical district.

~~(18)~~ **HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

~~(19)~~ **IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.

~~(20)~~ **INFESTATION.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

~~(21)~~ **LABELED.** Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

~~(22)~~ **LET FOR OCCUPANCY OR LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

~~(23) — **MAINTENANCE AND PROTECTION.** All operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, and cutting above or below ground.~~

(24) ~~**MOTOR VEHICLE IN AN INOPERATIVE CONDITION.** Means~~  
~~a~~ Any type of motor vehicle or motor driven vehicle used or useful for the conveyance of persons or property, which is or appears to be in any of the following states: (1) unable to move under its own power (2) in a dangerous condition due to defective or missing parts (3) in a condition generally as to be unfit for further use as a conveyance and/or (4) not properly licensed so that it can be legally operated on the public streets or highways.

**MOTOR VEHICLE – MAJOR REPAIR.** Means any repair which requires the engine drive train, transmission assembly, exhaust system or drive train parts to be removed from the vehicle, and/or requires removal of any interior parts.

**MOTOR VEHICLE – BODY REPAIR.** Means any activity involving the application or removal of paint, epoxy, body filler or other similar product or material, of effect modifications to the exterior or interior of a vehicle.

**NEGLECT.** The lack of proper maintenance for a building or structure.

(25) **OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

(26) **OCCUPANT.** Any individual **occupying**, living or sleeping in a building or structure, or having possession of a space within a building or structure.

(27) **OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

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

(29) **OWNER.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court **Shall mean: (a) any owner of record of the fee of the premises or lesser estate therein, mortgagee, vendee in possession, land contract purchaser, assignee of rents, receiver, executor, administrator, trustee, or lessee as determined by an examination of public records of Montgomery County Ohio; (b) any owner of record of any building or structure on a premises, including any mobile or manufactured home, or any lesser estate therein, mortgagee, vendee in possession, land contract purchaser, assignee of rents, receiver, executor, administrator, trustee, or lessee as determined by an examination of public records of Montgomery County Ohio or the State of Ohio; and (c) any other person, firm or corporation in control of a building, structure or premises, or their duly authorized agents.**

(30) **PERSON.** An individual, corporation, partnership or any other group acting as a unit.

**PEST ELIMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

~~(31) **PORTABLE.** Capable of being transported or conveyed.~~

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

(33) **PUBLIC AREA.** All public ways, parks, and other lands owned or leased by the city.

(34) **PUBLIC NUISANCE or NUISANCE.** ~~Any fence, wall, shed, building, structure, or any part of the aforesaid, or lot, lots, or parcel of land, basement, cellar, sidewalk subspace, dock, wharf, or landing dock which in its entirety or in any part thereof, by reason of condition in which the same is permitted to be or remain, shall or may endanger health, life, limb, or property, or cause any hurt, harm, inconvenience, discomfort, damage, or injury to any one or more persons in the city, in any one or more of the following particulars:~~ Shall be as defined in Chapter 160 of the Codified Ordinances of the City of West Carrollton.

~~(i) Being a nuisance to the general health of the community.~~

~~(ii) Being a fire hazard.~~

~~(iii) Being unsafe for occupancy or use on, in, upon, about, or around the aforesaid premises.~~

~~(iv) Being a nuisance because of long continued vacancy, lack of reasonable or adequate maintenance of structure and/or premises adjacent thereto, thereby depreciating the enjoyment and use of the property in the immediate vicinity to extent that it is harmful to the community in which the structure is situated.~~

(35) **PUBLIC WAY.** Any public street, road, boulevard, alley, sidewalk, right-of-way, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**REASONABLE.** Shall mean fair, proper, or moderate under the circumstances.

**RECREATIONAL VEHICLE.** Shall mean and include the following:

(1) *Travel trailer*, which is a portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation, vacation and/or other uses, and is pulled by another motorized vehicle;

(2) *Pick-up camper*, which is a structure designed primarily to be mounted on or removed from a motor vehicle chassis and maintains sufficient equipment to

render it suitable for use as a temporary dwelling for travel, recreation, vacation and/or other uses;

(3) *Motorized mobile home*, which is a self-contained motorized dwelling designed to be used as a temporary dwelling for travel, recreation, vacation and/or other uses;

(4) *Boat trailer*, means an open or enclosed trailer that transports any type of watercraft;

(5) *Utility trailers*, means any type or style of open or enclosed trailer used to transport any item, material or vehicle;

(6) *Fold-out or pop-up tent trailers*, means a type of recreational vehicle that can be collapsed for ease of transportation or storage;

(7) Any combination of the above.

**RENTAL PROPERTY.** Shall mean any individual parcel of land for residential use and occupancy, the facilities and appurtenances in and on it, and the grounds, area, and facilities that is Let for Occupancy, Let or Leased, Rental Property does not include any of the following:

(1a) State and/or federal prisons, jails, workhouses, and other places of incarceration or correction, and halfway houses.

(2b) Hospitals or similar institutions.

(3e) Hotels or motels.

(4d) State- and/or county- sanctioned shelters for juvenile runaways, victims of domestic violence, or homeless persons.

(5e) State- and/or county- sanctioned foster care homes, community-oriented residential social service facilities.

(6f) Any form of the word “Group Home” as defined in Chapter 154 of the City of West Carrollton Zoning Code.

(36) **REFUSE.** Only the matters which are in fact noxious or have been refused and abandoned by the owner as worthless.

(37) **ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

(38) **ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

(39) **RUBBISH.** Automobile parts, refuse, scrap metal, used building materials, waste, ashes, cans, paper, cartons, furniture, appliances, plastic, coal, coke, rubber, leather, yard trimmings, excelsior, mineral matter, oil of an unsightly or unsanitary nature, wire, chips, shavings, bottles, glass, crockery, tin, wood, boxes, rags, dead weeds, brush, tree branches, bushes, other combustible material or anything else of an unsightly or unsanitary nature other than garbage and offal.

(40) **SCRAP METAL.** Pieces of or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether intact or in parts, which has served its usefulness in its original form and can no longer be used or is useful for its originally intended purpose.

**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.

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

(42) **STRUCTURE.** That which is built or constructed or a portion thereof.

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

(44) **TREE AND/OR SHRUBS.** All woody vegetation presently or hereafter planted on any public areas.

(45) **TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**ULTIMATE DEFORMATION.** The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

~~(46) **USED BUILDING MATERIALS.** Any material such as wood, stone, brick, cement blocks or any composition or combination thereof used or useful in the erection of any building or structure which has been used previously for the erection or construction by the same person or other persons.~~

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

~~(48)~~ **WEEDS.** ~~All grasses, annual plants, vines, and vegetation other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens~~ Weeds shall include all grasses, annual, biennial and perennial plants and vegetation. However, this term shall not include trees, shrubs, bushes, cultivated flowers and gardens, ornamental grasses, cultivated gardens and crops planted and cultivated for sale or in connection with an agricultural business.

**WORKING DAYS.** Shall be Monday through Friday excluding holidays.

~~(49)~~ **WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

~~(50)~~ **YARD.** An open space on the same lot with a structure.

## GENERAL REQUIREMENTS

### §158.15 GENERAL.

(A) *Scope.* The provisions of this Chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

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

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

### §158.16 EXTERIOR PROPERTY AREAS.

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

(B) *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. The drainage of water or stormwater from a property shall not be discharged in such a manner to create a public nuisance to neighboring properties, public rights-of-way or public ways.

(1) ~~Exception to this requirement shall be as follows:~~ Approved retention areas, detention basins and reservoirs, provided their operation does not create a public nuisance to neighboring properties, public rights-of-way or public ways.

~~(a) For approved retention areas and reservoirs.~~

(C) *Sidewalks, curbs and driveways.* All sidewalks, curbs, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, free of grass or other vegetation, and maintained free from hazardous conditions.

(D) ~~Annual notice to cut noxious weeds; failure and certification cost~~ *Weeds.*

(1) Premises and exterior property shall be maintained free of weeds in excess of eight inches (8") in height or length. Noxious weeds shall be prohibited. For the purposes of this Section, weeds shall be as defined in Section 158.14. For the purposes of this Section, noxious weeds shall be the same as currently defined in Section 901:5-37-01 of the Ohio Administrative Code.

(24) The Chief Code Enforcement Officer, ~~City Manager~~ or his/her designee shall annually, cause a notice to be published in a newspaper of general circulation within the City, stating that weeds and noxious weeds are growing on lands within the limits of the City. Such notice shall not be required to describe the lands or to specify the name of the owner of such property; ~~However,~~ such notice shall constitute notice to any owner, lessee, agent, or tenant having charge of any land upon which weeds and noxious weeds are grown and that the same must be cut and destroyed within five (5) calendar days after such publication. Such notice shall further specify that weeds and noxious weeds shall be cut every subsequent time the height exceeds eight (8") inches thereafter without further notice or publication in order to prevent spreading, maturing, or exceeding eight (8) inches in height of weeds and noxious weeds. Such notice shall be published one time in order to constitute notice hereafter.

(32) When any person being the owner, lessee, agent, or tenant having charge of the lands mentioned in subsection (1) hereof, fails to comply with the notice set forth in subsection (2) hereof such publication, the Chief Code Enforcement Officer, ~~City Manager~~ or his/her designee is hereby authorized to shall cause such weeds and noxious weeds to be cut and destroyed. ~~The Chief Code Enforcement Officer, or his/her designee and may employ the necessary labor to perform such task~~ call upon any department, or division of the City, or by private contract for whatever assistance may be necessary to cause such weeds and noxious weeds to be cut and destroyed. All expense incurred shall, when approved by the City Manager, be paid out of any money in the City Treasury not otherwise appropriated.

(43) The Director of Finance ~~City Manager~~ or his/her designee, shall make a written return to the County Auditor with a statement of charges for service in cutting such weeds and noxious weeds, together with a proper description of the premises. Such amounts shall be entered upon the tax duplicate, shall constitute a lien upon such lands from the date of the entry, and shall be collected as other taxes and returned to the city with the general fund.

~~(4) In the event does not trim or remove any tree, plant, or shrubbery, or any part thereof, in accordance with the provisions of this section, then the City Manager or his/her designee is authorized and it is declared to be their duty to have enforced the provisions of this section, and to cause to be trimmed or removed such tree, plant, or shrubbery, or part thereof, and cut and remove all grass and weeds.~~

~~(5) Whenever any tree, plant, or shrubbery, or part thereof, or weeds and grasses are growing in any street, public place, or upon private property contiguous to a street or sidewalk or public place, and is trimmed or removed by the city, then, after the work is done, the city shall give five (5) days notice, by regular mail, to the owner of such lot or parcel of land at his last known address, to pay the cost of such trimming or removal of trees, plants, shrubbery, grass or weeds, or parts thereof. Notice shall be accompanied by a statement of the amount of cost incurred, including an administrative fee as set forth in Chapter 36, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton, and in the event the same is not paid within thirty (30) days after the mailing of the notice, then such amount shall be certified to the county auditor for collection the same as other taxes and assessments are collected.~~

(E) *Trees and shrubs within private and public areas.*

(1) *Purpose.* It is the policy of the City to regulate and control the planting, removal, maintenance, and protection of trees and shrubs in the public area: to eliminate and guard against dangerous conditions which may result in injuries to persons on private property and in using public areas of the City; to promote and enhance the beauty of the City; to prevent damage to any utility public sewer or water main, street, sidewalk, or other public or private property; to protect trees and shrubs located in public and private areas from undesirable and unsafe planting, removal, maintenance, and protection practices; and to guard all trees and shrubs within the City against the spread of disease or pest. The provisions of this Section shall apply to all trees and shrubs planted in or upon public areas and private premises which shall endanger the life, health or safety of persons or property using public areas of the City and private premises.

(a) The Chief Code Enforcement Officer shall annually, cause a notice to be published in a newspaper of general circulation within the City, stating that trees and shrubs are growing on lands within the limits of the City and such trees and/or shrubs are interfering with the use of a public area and shall be trimmed to a clearance height of at least fourteen feet (14') from any public road or alley surface; eight feet (8') from any public sidewalk; and a minimum of twelve (12") inches horizontally away from a public road, alley or sidewalk. Such notice shall not be required to describe the lands or to specify the name of the owner of such property. However, such notice shall constitute notice to any owner, lessee, agent, or tenant having charge of any land upon which trees and/or shrubs are grown and that the same must be trimmed within five (5) calendar days after such publication. Such notice shall further specify that trees and/or shrubs shall be trimmed every subsequent time they encroach a public road, alley or sidewalk thereafter without further notice or publication in order to preserve public health, safety and welfare. Such notice shall be published one time in order to constitute notice hereafter.

(b) When any person being the owner, lessee, agent, or tenant having charge of the lands mentioned in subsection (1) hereof, fails to comply with the notice set forth in subsection (1)(a) hereof, the Chief Code Enforcement Officer, or his/her designee is hereby authorized to cause such weeds and noxious weeds to be cut and destroyed. The Chief Code Enforcement Officer, or his/her designee may call upon any department, or division of the City, or by private contract for whatever assistance may be necessary to cause such weeds and noxious weeds to be cut and destroyed. All expense incurred shall, when approved by the City Manager, be paid out of any money in the City Treasury not otherwise appropriated.

(c) The Director of Finance, or his/her designee, shall make a written return to the County Auditor with a statement of charges for service in cutting such weeds and noxious weeds, together with a proper description of the premises. Such amounts shall be entered upon the tax duplicate, shall constitute a lien upon such lands from the date of the entry, and shall be collected as other taxes and returned to the city with the general fund.

(2) *Powers and duties.* The City Manager, or his/her designee is hereby authorized and empowered to:

(a) Direct and control the city street tree program to include all planting, removal, maintenance, and protection of trees and shrubs on public areas.

(b) Guard all trees and shrubs in the city so as to prevent the spread of disease or pest and to eliminate dangerous conditions which may affect life, health, or safety of person or property.

(3) *Damage to trees and shrubs.* No person shall in any public area of the city: break, injure, mutilate, kill, or destroy any tree or shrub; permit any animal under his/her control to do so; permit any fire to injure any tree or shrub; or permit any toxic chemical to seep, drain, or be emptied on or about any tree or shrub. During building operations, the builder shall erect suitable protective barriers around public trees and shrubs which may be injured.

(4) *Fastening materials to trees and shrubs.* No person shall fasten any sign, rope, wire, or other material to, around, or through any public tree or shrub without obtaining written permission from the city, except in emergencies such as storms or accidents, or when guying a newly planted tree in a professional manner.

(5) *Public utilities.* Public work affecting trees or shrubs shall be limited to the actual necessities of the services of the company and such work shall be done in a neat and professional manner and according to the arboricultural specifications and standards set forth in division (11) of this section. The City Manager or his/her designee may supervise the work performed.

(6) *Planting, removal, maintenance, and protection of trees and shrubs.* All trees or shrubs in any public way and planted by or on behalf of the City shall be planted, removed, maintained, and protected according to the most recent editions of the following: "National Arborists Association Standard for Pruning, Guying, Fertilizing, Spraying and

Lightning Protection of Shade Trees;” “American National Standards Institute (ANSI), 3133.1 – Safety Requirements for Tree Care and Removing Trees and Cutting Brush;” and standards set forth under ~~division~~ **subsection** (11) of this **S**ection.

(7) *Power to plant, remove, protect, and maintain trees and shrubs.* The City Manager or his/her designee shall have the authority to plant, remove, maintain, and protect trees and shrubs on all public areas as may be necessary to **e**nsure safety or preserve the symmetry and beauty of such grounds.

(8) *Public nuisance.* Any tree shrub or part thereof growing upon private or public property which is interfering with the use of any public area or endangers life, safety or health of persons or property in a private or public area is declared a public nuisance.

(9) *Abatement of nuisance.*

(a) *Trees and shrubs on public or private areas.* **Should** ~~If the~~ **Chief Code Enforcement Officer, City Manager** or his/her designee shall determine, with reasonable certainty upon inspection or examination, any nuisance tree or shrub, as herein defined, exists in or upon any public or private area in the **C**eity, he/~~she~~ **her** shall immediately cause it to be treated, trimmed, removed, or otherwise abated in such a manner as to destroy or prevent the spread of such nuisance. The manner, in which the nuisance shall be abated, shall be determined by the **Chief Code Enforcement Officer, City Manager** or his/~~her~~ designee. **The Chief Code Enforcement Officer, or his/her designee under the provisions outlined in Section 158.04 (C) shall be authorized at any time to enter on the premises in order to remove or to lessen the severity of the public nuisance. The Chief Code Enforcement Officer, or his/her designee may call on any department, or division of the City, or by private contract for whatever assistance may be necessary to remove or to lessen the severity of the public nuisance. Photographs of the nuisance shall be taken prior to and after abatement. Those photographs shall be filed with the City of West Carrollton Planning and Community Development Department.**

(b) ~~The owner of every lot or parcel of land within the corporate upon which a tree, plant, or any shrubbery stands with any part thereof upon or overhanging a public street or sidewalk, shall conform to the regulations herein provided; otherwise the city shall cause such trees to be trimmed or cut down and removed in accordance with such regulation and assess the cost thereof against the owner of such lot or parcel of land.~~ **Either before, or as soon as practical after the abatement of the nuisance, the Chief Code Enforcement Officer, or his/her designee shall serve a written notice on the owner in the manner provided in Section 158.07. The notice shall also inform the owner of:**

(i) **The date on which the nuisance was found; and**

(ii) **The cost incurred to include an administrative fee in abating the nuisance and that the City will recover such costs in the manner provided in Section 158.99 (E); and**

(iii) **The right to appeal as provided for in Section 158.12.**

(c) All trees located in any public way that border private property shall be maintained by the adjoining property owners in accordance with this Section. This duty of maintenance shall be binding upon all subsequent owners and occupiers of the adjoining property.

(d) The City shall take the responsibility for the maintenance of trees, shrubs or decorative vegetation planted by the City on the following streets. This maintenance shall include repairs for damaged curbs and sidewalks caused by the tree roots of these trees. For trees or shrubs other than those listed below, the City shall maintain no liability for maintenance, removal or damage caused by any tree or shrub to persons or property planted by the City with the approval of the private property owner upon the property of said private property owner in which said tree or shrub was planted:

- (i) Miami Avenue – Central Avenue to Hydraulic Road.
- (ii) Water Tower Lane – Alex Road to Imperial Road.
- (iii) S. Alex Road – Dixie Drive to Elm Street.
- (iv) Central Avenue – Cedar Street to Elm Street (North side).
- (v) N. Elm Street – Main Street to Shannon Avenue.
- (vi) Royal Ridge Dr. – S. Alex Road to Minstrel Drive.
- (vii) Alex-Bell Road – Dixie Drive to S.R. 741.
- (viii) Kimberly Lane – Alex Road to Alex-Bell Road.
- (xi) Bowman Lane – Alex Road to Omad Court.
- (x) E. Dixie Drive – Cedar Street to Alex-Bell Road.
- (xi) E. Central Avenue – Alex Bell Road to Cedar Street.

~~This maintenance shall include repairs for damaged curbs and sidewalks caused by the tree roots of these trees.~~

~~Trees planted by the City in other areas other than those mentioned above shall not be the responsibility of the City including maintenance, removal, or repair of and damage caused by the trees including damage by tree roots for the reason that these trees were planted with the concurrence of the abutting property owners~~

(e) The Private property owners shall trim or cut down and remove any tree, plant, 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 a nuisance

necessary to protect the life, limb, or property of persons, drivers of any vehicles, or pedestrians using the street or sidewalk.

(10) *Interference with the Chief Code Enforcement Officer, City Manager or his/her designee.* No person shall prevent, delay or interfere with the Chief Code Enforcement Officer, City Manager or his/her designee or his/her assistants in the execution or enforcement of this section. Any person who interferes with the Chief Code Enforcement Officer, or his/her designee in the carrying out of their duties as required by this Section shall be guilty of a misdemeanor of the second degree and charged so under §2921.31 of the Ohio Revised Code.

(11) *Arboricultural specifications and standards.* The following specifications and standards are hereby established for the planting, trimming and removal of trees and shrubs in the streets, parks, and public areas of the City:

(a) *Planting.* The planting of any tree, shrub or vegetation shall conform to those requirements of Section 154.13.01 of the City of West Carrollton Zoning Code.

~~(i) All trees will not be less than one inch in diameter of trunk, at six inches above ground level.~~

~~(ii) No tree shall be planted closer than two feet from the curb line or outer line of the sidewalk. All trees shall be planted in line with each other and at a spacing of a minimum of 30 feet from each other.~~

~~(iii) The following species and varieties are prohibited for planting on the boulevards of public streets in the city: female trees of the genus Populous; female trees of Box Elder; and Silver Maples, Catalpas, and Willows.~~

~~(iv) No tree hereafter be planted at or within 25 feet of an intersection.~~

(b) *Trimming.*

(i) All trees, vegetation and shrubs, on public or private property which have branches overhanging a public street, or alley shall have said branches trimmed to a clearance height of fourteen (14') feet from the road surface; all trees, vegetation and shrubs, on public or private property, which have branches overhanging a public sidewalk, shall have said branches trimmed to a clearance height of eight (8') feet from the surface of said sidewalk; all trees, vegetation and shrubs encroaching public streets, alleys and/or sidewalks shall be horizontally trimmed back eighteen (18") inches from said street, alley and/or sidewalk. The Chief Code Enforcement Officer, City Manager or his/her designee may waive the provisions of this section for newly planted trees if he/her determines they do not interfere public travel, obstruct the light of any street light, or endanger public safety. Trees and/or shrubs in violation of this Section shall be declared a public nuisance and shall be abated as provided for herein.

(ii) All dead wood, stumps, broken branches, badly formed branches, disease-infected and insect infested branches and branches interfering with public travel, lighting, existing buildings, and traffic signs shall be removed during the trimming operation, with consideration given to the symmetry and beauty of the tree or shrub.

(iii) No tree in a public way planted by or on the behalf of the City shall be “topped” or cut back so as to remove the trees crown or normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning standards are impractical, may be exempted from this Section by the Chief Code Enforcement Officer, City Manager or his/her designee.

(c) *Removing.*

(i) All public trees and shrubs which are marked for cutting shall be completely removed from the growing site and disposed of in an authorized manner. The stumps shall be ground out to a depth suitable for future planting of trees or turf.

(ii) All trees planted by or on the behalf of the city and removed by abutting property owners without permission from the City Manager, or his/her designee shall be replaced by the property owner with a tree of the same size and species.

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

(G) *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.

(H) *Accessory structures.* All accessory structures, including but not limited to detached garages, fences, sheds and walls, shall be maintained structurally sound and in good repair.

(I) *Motor and recreational vehicles.* ~~No person shall store, place, or allow to remain, motor vehicles in an inoperative condition, unregistered, or unfit for further use, outside of a fully enclosed garage or other suitable structure on any property within the corporate limits of the city.~~

(1) ~~In the event of a violation of section 158.16(I), the City Manager or his/her designee shall give notice to the owner, occupant or person having charge of the premises upon which the violation occurs. The issuance of such notice shall be as set forth in Section 158.06(B)~~ *Placement.* Except as provided for by another code or regulation of the City of West Carrollton, Ohio. No person shall park, keep, store or allow to remain outdoors on any premises, property or city owned property a motor vehicle or recreational vehicle that:

(a) is inoperable, unregistered, or not displaying a license plate that is current and properly titled to said vehicle; or

(b) is missing parts so as to prohibit said vehicle from legally operating on any public street, road, drive, avenue, alley, highway, public thoroughway or private drive; or

(c) is in a state of major disrepair, or in the process of being stripped or dismantled; or

(d) is being painted or undergoing major repair or body work; or

(e) is covered or tarped; or

(f) meets any of the criteria noted in (a), (b), (c), (d) or (e) above while remaining on an open trailer, truck or other vehicle.

(2) ~~If the person served with the notice as provided in sub-division (1) of this section fails to cause the violation to cease within five (5) days of the date upon which the notice was issued for a first offense, or 24 hours for a second offense, or within 12 hours for any subsequent offense, by housing the vehicle in a fully enclosed garage or other suitable structure or by removing the vehicle from the property, he/she shall be subject to the penalty provided in Section 158.99. The fact that the vehicle is so left is prima facie evidence of willful failure to comply with the notice, and a separate offense shall be deemed committed upon each and every day during or on which the violation occurs or continues. However, no additional notice of violation is required to be given for the subsequent days~~ **Towing. The towing of any vehicle mentioned within this Section upon complaint of the Chief Code Enforcement Officer, or his/her designee to the Chief of Police shall be conducted pursuant to Sections 4513.60, 4513.63, 4513.64, and 4513.65 of the Ohio Revised Code or any other relevant code, statute, or law of the City of West Carrollton or the State of Ohio.**

(3) ~~The City Manager or his/her designee is hereby authorized to pursue removal of the vehicle as follows:~~ **Exceptions:**

(a) ~~If a motor vehicle in an inoperative condition is located on public property, the City Manager or his/her designee may immediately remove or cause the removal of the vehicle.~~ **Automobile service stations and/or repair garages shall be exempt from Sections 158.16 (I)(1)(a) except for the license requirement, (b), (c), (d) and (f).**

(b) ~~If a motor vehicle in an inoperative condition is located on private property, the City Manager or his/her designee may remove or cause the removal of the vehicle not sooner than five days after serving notice as set forth in Section 158.06(B) of its intention to remove or cause the removal of the vehicle.~~ **New/used car dealerships as approved by the City of West Carrollton Zoning Code and any condition placed upon them by the Planning Commission shall be exempt from the license plate restriction in Section 158.16 (I)(1)(a).**

(c) ~~The City Manager or his/her designee may cause the removal or may employ the labor, materials, and equipment necessary to remove a motor vehicle in inoperative condition under this section. All expenses incurred in removing or causing the removal of a~~

motor vehicle in inoperative condition shall be placed upon the tax duplicate as a lien upon the land to be collected as other taxes and returned to the City.

~~(d) The police department shall forthwith notify the registered vehicle owner of the fact of the removal and impounding, reasons therefore, and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the police department to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner, or operator shall either pay the amount due for any fines for violations on account of which the vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release each vehicle upon receipt of the release form and payment of all towage and storage charges.~~

~~(e) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima facie evidence that it was so removed by the owner or operator. Penalty, see Section 70.99~~

~~(4) — This section shall not prevent any person from storing or keeping any collector's vehicle on private property with the permission of the person having the right to possession of the property, except that such vehicle must be completely screened from public view by means of buildings, fences, year round vegetation, terrain, or other screening acceptable to the City~~

~~(5) — This section shall not apply to lawful motor vehicle salvage dealerships or scrap metal processing facilities licensed under state or local statute, except that those facilities must meet all applicable screening requirements~~

(J) *Parking.* No person shall store, place, or allow to remain, motor **and/or motorized recreational** vehicles on non-approved paved surfaces. Reference ~~Zoning Code Section 154.12.01-158.14~~ for a list of approved paved surfaces.

(K) *Defacement of property.* No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. ~~(4)~~ It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

(L) *Ground cover.* Grass, plantings or other suitable ground cover shall be provided to prevent soil erosion which is or may become **a blighting influence to the neighborhood or** detrimental to the structures, lot use or adjacent lots and structures.

(M) *Traffic markings, signs and signals.* All traffic markings, **signs and signals to include including** but not limited to, **public and private traffic markings, signs and signals** ~~directional arrows, lane division lines, parking space lines and stop signs~~ shall be maintained so as to be clearly visible and easily recognized **by motorist and pedestrians.** **Unless approved otherwise, all public and private traffic markings, signs and signals shall abide by the Ohio**

Department of Transportation regulations for said public and private traffic markings, signs and signals.

(N) *Lighting.* All lighting used to illuminate ~~an~~ the exterior of any property, off-street parking or loading area shall be equipped with suitable shielding or be so arranged as to reflect light away from adjacent lots properties, and to prevent a glare at eye level on surrounding public property, streets or private property.

(O) *Time limit for storing construction materials.* Construction materials may be placed or stored on any property when the materials are being used in an active later construction project on the same property; ~~provided that~~ the construction materials shall not remain on the property for a period of more than thirty (30) days unless the construction activity using the materials has commenced and is active; ~~and provided further that the~~ Construction materials shall be ~~are~~ removed from the premises within ten ~~thirty~~ (130) days of the completion of the construction project; ~~but in no case shall the construction materials remain on the property for a period exceeding two (2) years for a project requiring permits or four (4) months for a project not requiring permits. No person or persons shall move any materials so stored or placed to another location within the city for the purpose of avoiding the intent of this sub-section, except that any materials may be moved to another property when the same have been sold to a bona fide purchaser for value for the purchaser's own use.~~

(P) *Outside storage – occupied properties.* No owner or occupant of any premises shall maintain or permit to be maintained, the exterior property areas of such premises in a condition that deteriorates or debases the appearance of the neighborhood or creates a blighting influence. Furniture, equipment and other items located on exterior property areas shall be designed listed and labeled for outdoor use and shall be maintained and stored in a neat and orderly manner, all other items shall be stored within enclosed structures or screened from the public view and from the view of neighboring properties.

(Q) *Outside storage – vacant properties.* Vacant, abandoned or condemned premises or structures in which portable items are left stored outside shall be placed within an enclosed structure or stored in an organized manner behind the structure. Items identified as rubbish shall be abated as per the requirements outline in §158.21.

(1) Upon a finding by the Chief Code Enforcement Officer, City Manager or his/her designee that portable items have been left stored on vacant exterior properties in the City and have not been removed or properly stored, the Chief Code Enforcement Officer, City Manager or his/her designee shall cause written notice to be served upon the owner or owner's authorized agent and if different, upon the lessee, agent, or tenant having charge of the property, or premise or structure that contains portable items notifying him/her that portable items are on exterior properties, premises, and that ~~it~~ they must be properly stored or removed within five (5) days of the date upon which the notice was issued. Service of such notice shall comply with Section 158.07.

(2) In the event the owner, lessee, agent, or tenant having charge of the property, premise or structure that contains portable items fails to properly store or remove such portable items from the property within five (5) days from service of notice to do so, the Chief Code Enforcement Officer, City Manager or his/her designee is hereby authorized to have such

portable items stored and to invoice the owner or owner's authorized agent for the cost incurred by the City in having such portable items stored, including an administrative fee assessed at the current rate as set forth in Chapter 367, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton. In the event the cost are not paid within 30 days after mailing of the invoice, then such amount shall be certified to the County Auditor for collection, the same as other taxes or assessments are collected.

(R) *Firewood.* The storage of firewood shall be restricted to rear or side yard areas only, stacked in a reasonably compact orderly manner not to exceed four (4) feet in height and shall encompass no more than 200 square feet of restricted in area.

#### **§158.17 SWIMMING POOLS, SPAS AND HOT TUBS.**

(A) *Swimming pools.* Swimming pools shall be maintained in a clean and sanitary condition, and in good repair so as not to pose a threat to public safety, health and welfare.

(1) The Chief Code Enforcement Officer or his/her designee shall annually, cause a notice to be published in a newspaper of general circulation within the City, stating that there are unsanitary swimming pools within the limits of the City. Such notice shall not be required to describe the lands or to specify the name of the owner of such property. However, such notice shall constitute notice to any owner, lessee, agent, or tenant having charge of any land upon which there are swimming pools in an unsanitary condition that the same must be made sanitary within five (5) calendar days after such publication. Such notice shall further specify that said unsanitary swimming pools shall be maintained sanitary thereafter without further notice or publication in order to prevent the breeding of insect larvae and mosquitoes. Such notice shall be published one time in order to constitute notice hereafter.

(2) When any person being the owner, lessee, agent, or tenant having charge of the land(s) mentioned in division (1) hereof, fails to comply with the notice set forth in such publication, the Chief Code Enforcement Officer or his/her designee shall cause such unsanitary pool be made sanitary, and may employ the necessary labor to perform such task. All expense incurred shall, when approved by the Chief Code Enforcement Officer or his/her designee, be paid out of any money in the City sources not otherwise appropriated.

(3) The City Director of Finance or his/her designee, shall make a written return to the County Auditor with a statement of charges for service in sanitizing any swimming pool, spa or hot tub, together with a proper description of the premises. Such amounts shall be entered upon the tax duplicate, shall constitute a lien upon such land(s) from the date of the entry, and shall be collected as other taxes and returned to the City with the general fund.

(B) *Enclosures.* Private S swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool, spa or tub. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when

released from an open position of 6 inches (152mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

(1) *Exceptions* to this requirement shall be as follows:

(a) Spas or hot tubs with a safety cover that complies with ASTM 1346 shall be exempt from the provisions of this subsection.

(b) Above ground swimming pools with walls equal to or greater than forty-eight (48) inches in height above the ground and having detachable ladders shall be exempt from the provisions of subsection (B) provided, that when not in use the ladder is removed from the pool and secured by lock away from the pool.

### **§158.18 EXTERIOR STRUCTURE.**

(A) *General.* The exterior of a structure or building shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. The following conditions shall be deemed to be as unsafe and shall be repaired or replaced to comply with the Ohio Building Code or the Residential Code of Ohio:

(1) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

(2) The anchorage of the floor or roof to walls and columns to foundations is not capable of resisting all nominal loads or load effects;

(3) Structures or components thereof that have reached their limit state;

(4) Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;

(5) Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;

(6) Foundation systems that are not firmly supported by footings, are not plumb and free of from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;

(7) Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;

(8) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;

(9) Floor and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects;

(10) Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

(11) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

(12) Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or

(13) Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored or that are anchored with connection not capable of supporting all nominal loads and resisting all load effects.

(14) *Exceptions:*

(a) Where substantiated otherwise by an approved method.

(b) Demolition of unsafe conditions shall be permitted after submission of a permit application and approval or where approved by the Chief Code Enforcement Officer.

(B) *Protective treatment.* All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(C) *Premises identification.* No person shall remove, alter, or deface any street address number or numbers properly assigned and placed on or near a house, structure or building or to place or retain on any house, structure or buildings any street address number or numbers other than those duly assigned. The following describes placement, type and size of address numbers:

(1) The owner of any house, structure or building which has an assigned street address shall cause the assigned street address number or numbers to be placed and continuously maintained, in a conspicuous location place either to the left, right, or immediately above the entrance doorway to the house, structure or building or in any other place on the property so the street address is easily legible from the street or other public way. If obstruction prohibits placement, the street address number or numbers said number or numbers shall be placed at or near the entrance to the walk or driveway in an appropriate place so as to be easily legible from the street or public way. On any corner lot, the street address number or numbers shall face the street named in the official address:-

(2) If a house, structure or building is set back more than 50 feet from the street line, the street address number or numbers shall be conspicuously displayed at or near the entrance of the walk or driveway to the house, structure or building in an appropriate place so as to be easily legible from the street or public way:-

(3) The street address number or numbers shall be Arabic numerals not less than four (4) three inches in height (102 mm), with a minimum stroke width of 0.5 inches (12.7 mm) of reflective material or lighted at night and be of a contrasting color to the background so as to be easily legible from the street or public way. Numbers shall not be spelled out.

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

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

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

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

(H) *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.

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

(J) *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.

(K) *Chimneys and towers.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(L) *Handrails and guards.* Every exterior handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. Specific requirements for the placement of handrails and guards relating to one, two and three family dwelling units shall be as outlined in the Residential Code of Ohio. Specific requirements for the placement of handrails and guards in all other structures other than one, two and three family dwelling units shall be as outlined in the Ohio Building Code.

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

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

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

(N) *Insect screens.* 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 not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

(1) *Exception to this requirement shall be as follows:* (a) Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

(O) *Doors.* All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and sleeping units guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 158.42(C).

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

(Q) *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.

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

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

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

(3) *Basement hatchways.* Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

**(S) Gates.** Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

#### **§158.19 INTERIOR STRUCTURE.**

(A) *General.* The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two 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. **The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Ohio Building Code or the Residential Code of Ohio:**

**(1) The nominal strength of any structural member is exceeded by the nominal loads, the load effects or the required strength;**

**(2) The anchorage of the floor or roof to wall or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;**

(3) Structures or components thereof that have reached their limit state;

(4) Structural members are incapable of supporting nominal loads and load effects;

(5) Stairs, landing, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

(6) Foundations systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads.

(7) *Exceptions:*

(a) Where substantiated otherwise by an approved method.

(b) Demolition of unsafe conditions shall be permitted when approved by the Chief Code Enforcement Officer.

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

(C) *Interior surfaces.* All interior surfaces, including but not limited to 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, drywall, decayed wood and other defective surface conditions shall be corrected.

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

(E) *Handrails and guards.* Every interior handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. Specific requirements for the placement of handrails and guards relating to one, two and three family dwelling units shall be as outlined in the Residential Code of Ohio. Specific requirements for the placement of handrails and guards in all other structures other than one, two and three family dwelling units shall be as outlined in the Ohio Building Code.

(F) *Interior doors.* Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

**~~§158.20 HANDRAILS AND GUARDRAILS~~ COMPONENT SERVICEABILITY.**

~~Handrails and guardrails shall be maintained in compliance with the most currently adopted Building Code.~~

(A) *General.* The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be deemed to be as unsafe and shall be repaired or replaced to comply with the Residential Code of Ohio or the Ohio Building Code:

(1) Soils that have been subjected to any of the following conditions;

(i) Collapse of footing or foundation system;

(ii) Damage to footing, foundation, concrete or other structural element due to soil expansion;

(iii) Adverse effects to the design strength of the footing, foundation, concrete or other structural element due to a chemical reaction from the soil;

(iv) Inadequate soil as determined by a geotechnical investigation;

(v) Where the allowable bearing capacity of the soil is in doubt; or

(vi) Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

(2) Concrete that has been subjected to any of the following conditions:

(i) Deterioration;

(ii) Ultimate deformation;

(iii) Fractures;

(iv) Fissures;

(v) Spalling;

(vi) Exposed reinforcement; or

(vii) Detached, dislodged or failing connections.

(3) Aluminum that has been subjected to any of the following conditions:

(i) Deterioration;

(ii) Corrosion;

(iii) Elastic deformation;

- (iv) Ultimate deformation;
- (v) Stress or strain cracks;
- (vi) Joint fatigue; or
- (vii) Detached, dislodged or failing connections.

(4) Masonry that has been subjected to any of the following conditions:

- (i) Deterioration;
- (ii) Ultimate deformation;
- (iii) Fractures in masonry or mortar joints;
- (iv) Fissures in masonry or mortar joints;
- (v) Spalling;
- (vi) Exposed reinforcement; or
- (vii) Detached, dislodged or failing joints

(5) Steel that has been subjected to any of the following conditions:

- (i) Deterioration;
- (ii) Elastic deformation;
- (iii) Ultimate deformation;
- (iv) Metal fatigue; or
- (v) Detached, dislodged or failing connections.

(6) Wood that has been subjected to any of the following conditions:

- (i) Ultimate deformation;
- (ii) Deterioration;
- (iii) Damage from insects, rodents and other vermin;
- (iv) Fire damage beyond charring;

- (v) Significant splits and cracks;
- (vi) Horizontal shear cracks;
- (vii) Vertical shear cracks;
- (viii) Inadequate support;
- (ix) Detached, dislodged or failing connections; or
- (x) Excessive cutting or notching.

**§158.21 RUBBISH AND GARBAGE.**

(A) *Accumulation of rubbish or garbage.* All exterior property, premise, and the interior of every building and structure shall be free from the accumulation of rubbish or garbage. Upon a finding by the Chief Code Enforcement Officer, City Manager or his/her designee that rubbish or garbage has been placed on the exterior property, premise and/or the interior of any building or structure in the City and has not been removed, the Chief Code Enforcement Officer, City Manager or his/her designee shall cause written notice to be served upon the owner and if different, upon the lessee, agent, or tenant having charge of the property, premise or structure that contains rubbish or garbage notifying him/her that rubbish or garbage is on exterior properties, premises and or the interior of any structure, and that it must be collected and removed immediately or up to five (5) days depending on the severity of the violation. Service of such notice shall comply with Section 158.07.

(1) *Exception to this requirement shall be as follows:* (a) This Section does not apply to properties, premises or structures being used under a city building or construction permit or license, a city permit or license, or a conditional zoning permit or variance to operate a junk yard, scrap metal operating facility, or similar businesses or a permit issued pursuant to the provisions of state law.

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

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

(2) *Refrigerators and equipment.* Refrigerators and similar equipment ~~not in operation~~ shall not be discarded, abandoned or stored on exterior premises without either first removing the doors or ensuring that the doors cannot be open by children. Refrigerator or equipment shall be removed from the property within seventy-two (72) hours of being placed outside.

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

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

(2) *Containers.* The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

(D) In the event the owner, lessee, agent, or tenant having charge of the property, premise or structure that contains rubbish or garbage fails to remove such rubbish or garbage from the property within immediately or up to five (5) days from service of notice to do so, the City Manager or his/her designee is hereby authorized to have such rubbish or garbage removed from the property and to bill the owner for the cost incurred by the city in having such rubbish or garbage removed, including an administrative fee assessed at the current rate as set forth in Chapter 376, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton. In the event the cost are not paid within 30 days after mailing of the bill, then such amount shall be certified to the County Auditor for collection, the same as other taxes or assessments are collected.

#### **§158.22 EXTERMINATION.**

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

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

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

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

(E) *Occupant.* The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

(1) ~~Exception to this requirement shall be as follows:~~ (a) Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

## LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### §158.23 GENERAL.

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

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

(C) *Alternative devices.* In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Ohio Building Code or Residential Code of Ohio whichever is applicable shall be permitted.

### §158.24 LIGHT.

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

~~(1) Exception to this requirement shall be as follows:~~ (a) Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least **eight (8)** percent of the floor area of the interior room or space, but not less than **twenty-five (25)** square feet (2.33 m<sup>2</sup>). The exterior glazing area shall be based on the total floor area being served.

(B) *Common halls and stairways.* Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times **with not less than** at least a 60-watt standard incandescent light bulb for each **two-hundred (200)** square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than **thirty (30)** feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of **one (1)** footcandle (11 lux) at floors, landings and treads.

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

### §158.25 VENTILATION.

(A) *Habitable spaces.* Every habitable space shall have at least one (1) operable window. The total operable area of the window in every room shall be equal to at least forty-five (45) percent of the minimum glazed area required in Section 158.24(A).

(1) ~~Exception to this requirement shall be as follows:~~ (a) Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight (8) percent of the floor area of the interior room or space, but not less than twenty-five (25) square feet (2.33 m<sup>2</sup>). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

(B) *Bathrooms and toilet rooms.* Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 158.25(A), except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be re-circulated.

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

(1) ~~Exceptions to this requirement shall be as follows:~~

(a) Where specifically approved in writing by the Chief Code official Enforcement Officer.

(b) Coffee pots and microwave ovens shall not be considered cooking appliances.

(D) *Process ventilation.* Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided and maintained in good working order to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be re-circulated to any space.

(E) *Clothes dryer exhaust.* Clothes dryer exhaust systems shall be maintained in good working order and free of lint build-up. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

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

## §158.26 OCCUPANCY LIMITATIONS.

(A) *Privacy.* Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(B) *Minimum room widths.* A habitable room, other than a kitchen, shall not be less than seven (7) feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of

not less than **three (3)** feet (914 mm) between counter-fronts and appliances or counter-fronts and walls.

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

(1) *Exceptions to this requirement shall be as follows:*

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

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

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

(D) *Bedroom and living room requirements.* Every bedroom **and living room** shall comply with the following requirements:-

(1) *Room Area for sleeping purposes.* Every **living room shall contain not less than one-hundred (120) square feet (11.2 m<sup>2</sup>)** and every bedroom ~~occupied by one person~~ shall contain ~~at least~~ **not less than seventy (70) square feet (6.5 m<sup>2</sup>) of floor area**, and every bedroom occupied by more than one person shall contain ~~at least~~ **not less than fifty (50) square feet (4.6 m<sup>2</sup>) of floor area** for each occupant thereof.

(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.

(a) *Exception to this requirement shall be as follows:* (i) Units that contain fewer than two **(2)** bedrooms.

(3) *Water closet accessibility.* Every bedroom shall have access to at least one **(1)** water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to ~~at least~~ **not less than** one **(1)** water closet and lavatory located in the same story as the bedroom or an adjacent story.

(4) *Prohibited occupancy.* Kitchens and non-habitable spaces shall not be used for sleeping purposes.

(5) *Other requirements.* Bedrooms shall comply with the applicable provisions of this code including, but not limited to light, ventilation, room area, ceiling height and room width requirements of this Chapter; plumbing facilities and water heating facilities requirements of this Chapter; mechanical heating facilities and electrical receptacle requirements of this Chapter; and fire safety smoke detector and emergency escape requirements of this Chapter.

(E) *Overcrowding.* Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 158.26(E).

**TABLE 158.26(E)  
MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living Room <sup>a, b</sup>	No requirements 120	120	150
Dining Room <sup>a, b</sup>	No requirements	80	100
Bedrooms	Shall comply with Section 158.26(D)		

For SI: 1 square foot = 0.093 m<sup>2</sup>.

a. See Section 158.26(E)(2) for combined living room/dining room spaces.

b. See Section 158.26(E)(1) for limitations on determining the minimum occupancy area for sleeping purposes.

(1) *Sleeping area.* The minimum occupancy area required by Table 158.26(E) shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 158.26(D).

(2) *Combined spaces.* Combined living room and dining room spaces shall comply with the requirements of Table 158.26(E) 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.

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

(1-) A unit occupied by not more than one (1) occupant shall have a clear floor area of one-hundred-twenty (120) square feet (11.2 m<sup>2</sup>). A unit occupied by not more than two (2) occupants shall have a clear floor area of not less than Two-hundred-twenty (220) square feet (20.4 m<sup>2</sup>). A unit occupied by three (3) occupants shall have a clear floor area of not less than three-hundred-twenty (320) square feet (29.7m<sup>2</sup>). These required areas shall be exclusive of the areas required by items 2 and 3.

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

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

(4-) The maximum number of occupants shall be three.

(G) *Food preparation.* All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## PLUMBING FACILITIES AND REQUIREMENTS

### §158.27 GENERAL.

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

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

### §158.28 REQUIRED FACILITIES.

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

(B) *Rooming houses.* Not less than At least one (1) water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

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

(D) *Employees' facilities.* Not less than A minimum of one (1) water closet, one (1) lavatory and one (1) drinking facility shall be available to employees.

(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.

(E) *Public toilet facilities.* Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the most current adopted Ohio Plumbing Code.

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.

### §158.29 TOILET ROOMS.

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

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

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

(1) *Exception to this requirement shall be as follows:* (a) Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of five-hundred (500) feet (152 m) from the employees' regular working area to the facilities.

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

### §158.30 PLUMBING SYSTEMS AND FIXTURES.

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

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

(C) *Plumbing system hazards.* Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of non-existent freeze protection, inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the Chief Code official Enforcement Officer, or his/her designee shall require the defects to be corrected to eliminate the hazard.

### §158.31 WATER SYSTEM.

(A) *General.* Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the most current adopted Ohio Plumbing Code.

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

(C) *Backflow prevention.* Backflow prevention devices where required shall be installed and maintained operable at all times.

(1) *Yearly inspection.* All installed backflow prevention devices shall be inspected to ensure proper operation on no less that a yearly basis by persons licensed to do so by the State of Ohio. Reports of inspections shall be delivered to the City of West Carrollton Water Clerk.

(D) *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.

(E) *Water heating facilities.* Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a **minimum** temperature of ~~not less than~~ 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

(F) *Nonpotable water reuse systems.* Nonpotable water reuse systems and rainwater collection and conveyance systems shall be maintained in a safe and sanitary condition. Where such systems are not properly maintained, the system shall be repaired to provide for safe and sanitary conditions, or the system shall be abandoned in accordance with subsection 158.31 (E) (1) below.

(1) *Abandonment of systems.* Where nonpotable water reuse systems and rainwater collection and conveyance system is not maintained or the owner ceases use of the system, the system shall be abandoned in accordance with Section 1301 of the Ohio Plumbing Code.

(G) *Shut-off-authority.* In order to safe guard the public water supply and to protect public and private property from damage due to leaks, or pipe bursts, the Chief Code

Enforcement Officer shall have the authority to immediately order the domestic water service turned-off at the curb box to any property, building or structure deemed not to be adequately safe guarded against tampering, damage, freezing or under an order of condemnation. Once the service has been deemed to be adequately safe guarded and/or the order of condemnation rescinded, the service may be restored only under the direction of the Chief Code Enforcement Officer. The City shall be held harmless from damages resulting from any order regarding the termination or reinstatement of water service. The Chief Code Enforcement Officer, or his/her designee shall notify the servicing utility and, whenever possible, the owner or owner's authorized agent and occupant(s) of the building, structure or service system of the decision to disconnect prior to taking such action. If unable to make notification prior to disconnection, the owner, owner's authorized agent or occupant(s) of the building, structure or service system shall be notified in writing as soon as practical thereafter.

### **§158.32 SANITARY DRAINAGE SYSTEM.**

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

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

(C) *Grease interceptors.* Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code, the City of West Carrollton Public Works Code, the Ohio Plumbing Code and the manufactures installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the Chief Code Enforcement Officer, or his/her designee.

### **§158.33 STORM DRAINAGE.**

(A) *General.* Drainage of roofs and paved areas, yards and courts and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

## **MECHANICAL AND ELECTRICAL REQUIREMENTS**

### **§158.34 GENERAL.**

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

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

## §158.35 HEATING FACILITIES.

(A) *Facilities required.* Heating facilities shall be provided in structures as required by this section.

(B) *Residential occupancies.* Dwellings shall be provided with **non-portable** heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in **the Air Conditioning Contractors of America Manual J**. Cooking appliances shall not be used, **nor shall any type/style of portable space heater be used** to provide space heating to meet the requirements of this **S**section.

(1) *Exception to this requirement shall be as follows:* (a) In **areas where months when** the average **monthly** temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

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

(1) *Exceptions to this requirement shall be as follows:*

(a) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in **the Air Conditioning Contractors of America Manual J**.

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

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

(1) *Exceptions to this requirement shall be as follows:*

**(1a)-** Processing, storage and operation areas that require cooling or special temperature conditions.

**(2b)-** Areas in which persons are primarily engaged in vigorous physical activities.

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

### **§158.36 MECHANICAL EQUIPMENT.**

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

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

(1) *Exception to this requirement shall be as follows:* (a) Fuel-burning equipment and appliances which are labeled for unvented operation.

(C) *Clearances.* All required clearances to combustibles shall be maintained in accordance with the equipment or appliance listing and label.

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

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

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

### **§158.37 ELECTRICAL FACILITIES.**

(A) *Facilities required.* Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 158.38.

(B) *Service.* The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70 the most current National Electrical Code (NEC). Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 100 amperes.

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

(1) *Abatement of electrical hazards associated with water exposure.* The provisions of this sub-section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

(a) *Electrical equipment.* Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flex cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signing and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the Ohio Building Code.

(b) *General exceptions to subsection (C)(1)(a) above:* The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacture or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

- (i) Enclosed switches, rated a maximum of 600 volts;
- (ii) Busway, rated a maximum of 600 volts;
- (iii) Panelboards, rated a maximum of 600 volts;
- (iv) Switchboards, rated a maximum of 600 volts;
- (v) Fire pump controllers, rated a maximum of 600 volts;
- (vi) Manual and magnetic motor controllers;
- (vii) Motor control centers;
- (viii) Alternating current high-voltage circuit breakers;
- (ix) Low-voltage power circuit breakers;
- (x) Protective relays, meters and current transformers;
- (xi) Low- and medium-voltage switchgear;
- (xii) Liquid filled transformers;
- (xiii) Cast-resin transformers;
- (xiv) Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
- (xv) Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;

(xvi) Luminaires that are listed as submersible;

(xvii) Motors;

(xviii) Electronic control, signaling and communication equipment.

(2) *Abatement of electrical hazards associated with fire exposure.* The provisions of this sub-section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

(a) Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have not been exposed to fire, shall be replaced in accordance with the provisions of the Ohio Building Code.

(b) *General exceptions to (C)(2)(a) above:* Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

### **§158.38 ELECTRICAL EQUIPMENT.**

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

(B) *Receptacles.* Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

(C) *Luminaires ~~Lighting fixtures~~.* Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain not less than at least one electric luminaire ~~lighting fixture~~. Pool and spa luminaires over fifteen (15) volts shall have ground fault circuit interruption protection.

(D) *Wiring.* Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors or ceilings.

(E) *Generators.* Portable generators shall not be used to provide the primary electrical needs for any building or structure.

(1) *Exception:* Portable generators may be utilized during times of emergency or after a natural disaster provided, they are operating in accordance with their listing and label.

Electrical services shut-off by the service provider for non-payment of bill shall not be considered an emergency.

### **§158.39 ELEVATORS, ESCALATORS AND DUMBWAITERS.**

(A) *General.* Elevators, dumbwaiters and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the Chief Code Officer. The inspection and tests shall be performed not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

(B) *Elevators.* In buildings equipped with passenger elevators, at least not less than one elevator shall be maintained in operation at all times when the building is occupied.

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

### **§158.40 DUCT SYSTEMS**

(A) *General.* Duct systems shall be maintained free of obstructions, properly supported and shall be capable of performing the required function.

## **FIRE SAFETY REQUIREMENTS**

### **§158.41 GENERAL.**

(A) *Scope.* The provisions of this Section shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

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

### **§158.42 MEANS OF EGRESS.**

(A) *General.* A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Ohio Fire Code.

(B) *Aisles.* The required width of aisles shall be in accordance with the ~~most current adopted Ohio Fire Code and subsequent amendments as referenced in the Ohio Building Code~~ and shall be remain unobstructed.

(C) *Locked doors.* All M 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 door hardware conforms to that permitted by the ~~most current adopted Ohio Fire Code and subsequent amendments as referenced in the Ohio Building Code.~~

(D) *Emergency escape openings.* Required emergency escape and rescue openings shall be maintained in accordance with the code in effect at the time of construction and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grills, grates, or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction ~~most current adopted state mandated Ohio Building Code~~ and such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening. ~~Where bars, grills, grates, or similar devices are installed in existing buildings, smoke detectors shall be installed in accordance with section 158.44.~~

### **§158.43 FIRE-RESISTANCE RATINGS**

(A) *Fire-resistance-rated assemblies.* ~~The required fire resistance rating of fire-resistance rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained~~ The provisions of this Section shall govern maintenance of materials, systems and assemblies used for structural fire resistance and fire-resistance-rated construction separation of adjacent spaces to safeguard against the spread of fire and smoke within a building and the spread of fire to or from buildings.

(B) *Opening protectives.* ~~Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.~~ *Unsafe conditions.* Where any components are not maintained and do not function as intended or do not have the fire resistance required by the code under which the building was constructed or altered, such components or portions thereof shall be deemed unsafe conditions in accordance with Section 111.1.1 of the Ohio Fire Code. Components or portions thereof determined to be unsafe shall be repaired or replaced to conform to that code under which the building was constructed or altered. Where conditions of components is such that any building, structure or portion thereof presents an imminent danger to the occupants of the building,

structure or portion thereof, the Fire Code Official or his/her designee shall act in accordance with Section 111.2 of the Ohio Fire Code.

(C) *Maintenance.* The required fire resistance rating of fire-resistance-rated construction, including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistive materials applied to structural members and joint systems, shall be maintained. Such elements shall be visually inspected annually by the owner and repaired, restored or replaced where damaged, altered, breached or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air-transfer and any other reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of approved construction meeting the fire protection requirements for the assembly.

(1) *Fire blocking and draft stopping.* Required fire blocking and draft stopping in combustibles concealed spaces shall be maintained to provide continuity and integrity of the construction.

(2) *Smoke barriers and smoke partitions.* Required smoke barriers and smoke partitions shall be maintained to prevent the passage of smoke. Openings protected with approved smoke barrier doors or smoke dampers shall be maintained in accordance with NFPA 105.

(3) *Fire walls, fire barriers, and fire partitions.* Required fire walls, fire barriers, and fire partitions shall be maintained to prevent the passage of fire. Openings protected with approved doors or dampers shall be maintained in accordance with NFPA 80.

(D) *Opening protectives.* Opening protectives shall be maintained in an operative condition in accordance with NFPA 80. The application of field-applied labels associated with the maintenance of opening protectives shall follow the requirements of the approved third-party certification organization accredited for listing the opening protective. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable. Fusible links shall be replaced whenever fused or damaged. Fire door assemblies shall not be modified.

(1) *Signs.* Where required by the Fire Code Official or his/her designee, a sign shall be permanently displayed on or near each fire door in letters not less than one (1) inch (25mm) high and to read as follows:

(a) For doors designed to be kept normally opened: FIRE DOOR – DO NOT BLOCK.

(b) For doors designed to be kept normally closed: FIRE DOOR - KEEP CLOSED.

(2) *Hold-open devices and closers.* Hold-open devices and automatic door closers shall be maintained. During the period that such a device is out of service for repairs, the door it operates shall remain in the closed position.

(3) *Door operation.* Swinging fire doors shall close from the full-open position and latch automatically. The door closer shall exert enough force to close and latch the door from any partially open position.

(E) *Ceilings.* The hanging and displaying of salable goods and other decorative materials from acoustical ceiling systems that are part of a fire-resistive-rated horizontal assembly shall be prohibited.

(F) *Testing.* Horizontal and vertical sliding and rolling fire doors shall be inspected and tested annually to confirm operation and full closure. Records of inspections and testing shall be maintained.

(G) *Vertical shafts.* Interior vertical shafts, including stairways, elevator hoistways and service and utility shafts, which connect two or more stories of a building shall be enclosed or protected as required in Chapter 11 of the Ohio Fire Code. New floor opening in existing buildings shall comply with the Ohio Building Code.

(H) *Opening protective closers.* Where openings are required to be protected, opening protectives shall be maintained self-closing or automatic-closing by smoke detection. Existing fusible-link-type automatic door-closing devices shall be replaced if the fusible link rating exceeds 135 degrees Fahrenheit (57 degrees Celsius).

#### **§158.44 FIRE PROTECTION SYSTEMS**

(A) *General.* ~~All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Ohio Fire Code~~ *Inspection, testing and maintenance.* Fire detection, alarm and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective in accordance with the Ohio Fire Code.

(1) *Installation.* Fire protection systems shall be maintained in accordance with the original installation standards for that system. Required systems shall be extended, altered or augmented as necessary to maintain and continue protection where the building is altered or enlarged. Alterations to fire protection systems shall be done in accordance with applicable standards.

(2) *Required fire protection systems.* Fire protection systems required by this code, the Ohio Fire Code or the Ohio Building Code shall be installed, repaired, operated, tested and maintained in accordance with this code. A fire protection system for which a design option, exception or reduction to the provisions of this code, the Ohio Fire Code or the Ohio Building Code has been granted shall be considered to be a required system.

(3) *Fire protection systems.* Fire protection systems shall be inspected, maintained and tested in accordance with the following Ohio Fire Code requirements:

- (a) Automatic sprinkler systems, see Section 903.5;
- (b) Automatic fire-extinguishing systems protecting commercial cooking systems. See Section 904.12.5;
- (c) Automatic water mist extinguishing systems, see Section 904.11;
- (d) Carbon dioxide extinguishing systems, see Section 904.8;
- (f) Carbon monoxide alarms and carbon monoxide detection systems, see Section 915.6;
- (g) Clean-agent extinguishing systems, see Section 904.10;
- (h) Dry-chemical extinguishing systems, see Section 904.6;
- (i) Fire alarm and fire detection systems, see Section 907.8;
- (j) Fire department connections, see Sections 912.4 and 912.7;
- (k) Fire pumps, see Section 913.5;
- (l) Foam extinguishing systems, see Section 904.7;
- (m) Halon extinguishing systems, see Section 904.9;
- (n) Single- and multiple-station smoke alarms, see Section 907.10;
- (o) Smoke and heat vents and mechanical smoke removal systems, see Section 910.5;
- (p) Smoke control systems, see Section 909.20;
- (q) Wet-chemical extinguishing systems, see Section 904.5;

(B) ~~*Smoke alarms.* Approved single station smoke detectors/smoke alarms shall be installed in existing dwelling units, congregate residences, and hotel and lodging house guestrooms. Installation shall be in accordance with the most current adopted Ohio Fire Code and subsequent amendments as adopted in the Ohio Building Code and the Residential Code of Ohio.~~ *Standards.* Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 158.44 (B) and as required in this section.

**Table 158.44 (B)**  
**Fire Protection System Maintenance Standards**

<b>System</b>	<b>Standard</b>
Portable fire extinguishers	NFPA 10
Carbon-dioxide fire-extinguishing systems	NFPA 12
Halon 1301 fire-extinguishing systems	NFPA 12A
Dry-chemical extinguishing systems	NFPA 17
Wet-chemical extinguishing systems	NFPA 17A
Water-based fire protection systems	NFPA 25
Fire alarm systems	NFPA 72
Smoke and heat vents	NFPA 204
Water-mist systems	NFPA 750
Clean-agent extinguishing systems	NFPA 2001

(1) *Records.* Records shall be maintained of all systems inspections, tests, and maintenance required by the referenced standards.

(2) *Records information.* Initial shall include the: name of the installation contractor; type of components installed; manufacture of components; location and number of components installed per floor; and manufactures' operation and maintenance for the life of the installation.

(C) *Power source.* ~~In Group R occupancies and in dwellings not regulated as Group R occupancies, single station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.~~ *Systems out of service.* Where a required protection system is out of service, the fire department, Fire Code Official or his/her designee shall be notified immediately and, where required by the fire code official, either the building shall be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service. Where the Fire Code Official orders the building evacuated, the Chief Code Enforcement Officer shall placard the building condemned until such time as the protection system has been placed back into service and approved by the fire code official. Where utilized, fire watches shall be provided with not less than one approved means for notification of the fire department and shall not have duties beyond performing constant patrols of the protected premises and keeping watch for fires. Actions shall be taken in accordance with Section 901 of the Ohio Fire Code to bring the system back into service.

(1) ~~Exception to this requirement shall be as follows:~~ *Emergency impairments.* When unplanned impairments of fire protection systems occur, appropriate emergency action plan shall be taken to minimize potential injury and damage. The impairment coordinator shall implement the steps outlined in Section 901.7.4 of the Ohio Fire Code.

(a) ~~Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power~~

source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

(D) *Interconnection.* Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. *Removal of or tampering with equipment.* It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system or other fire appliance required by this code except for the purposes of extinguishing fire, training, recharging, or making necessary repairs. Whoever violates this Section shall be guilty of a misdemeanor of the third degree and charge so under §2909.07 (A) (4) of the Ohio Revised Code. Should a violation of this Section create a risk of physical harm to any person, the charge shall be upgraded to a misdemeanor of the first degree.

(1) *Exceptions to this requirement shall be as follows:* *Removal of or tampering with appurtenances.* Locks, gates, doors, barricades, chains enclosures, signs, tags and seals that have been installed by or at the direction of the Fire Code Official or his/her designee shall not be removed, unlocked, destroyed or tampered within any manner. Whoever violates this Section shall be guilty of a misdemeanor of the third degree and charge so under §2909.07 (A) (4) of the Ohio Revised Code. Should a violation of this Section create a risk of physical harm to any person, the charge shall be upgraded to a misdemeanor of the first degree.

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

(b) ~~Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.~~

(2) *Removal of existing occupant-use hose lines.* The Fire Code Official or his/her designee is authorized to permit the removal of existing occupant-use hose lines where all of the following apply:

(a) The installation is not required by the Ohio Fire Code or the Ohio Building Code; and

(b) The hose line would not be utilized by trained personnel or the fire department; and

(c) The remaining outlets are compatible with local fire department fittings.

(3) *Termination of monitoring service.* For fire alarm systems required to be monitored by the Ohio Fire Code, notice shall be made to the Fire Code Official or his/her designee whenever alarm monitoring services are terminated. Notice shall be made in writing by the provider of the monitoring service being terminated.

(E) *Fire department connection.* Where the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than six (6) inches (152mm) and the words in letters not less than two (2) inches (51mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the Fire Code Official.

(1) *Fire department connection access.* Ready access to fire department connection shall be maintained at all times and without obstruction by fences, bushes, tress, walls or any other fixed or movable object. Access to fire department connections shall be approved by the Fire Code Chief.

(a) *Exception:* Fences, where provided with an access gate equipped with a sign complying with the legend requirements of Section 912.5 of the Ohio Fire Code and a means of emergency operation. The gate and the means of emergency operation shall be approved by the fire Chief and maintained operational at all times.

(2) *Clear space around connections.* A working space of not less than thirty-six (36) inches (914mm) in width, thirty-six (36) inches (914mm) in depth seventy-eight (78) inches (1981mm) in height shall be provided and maintained in front of and to the sides of wall-mounted fire department connections and around the circumference of free-standing fire department connections.

(F) *Single- and multiple-station smoke alarms.* Single- and multiple-station smoke alarms shall be installed in existing group I-1 and R occupancies in accordance with subsections 158.44 (F) (1) through (F) (7) below.

(1) *Where required.* Existing group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with subsections 158.44 (F)(2) through 158.44 (F)(5). Interconnection and power sources shall be in accordance with subsections 158.44 (F)(6) and 158.44 (F)(7) below.

(a) *Exceptions:*

(i) Where the code that was in effect at the time of the construction required smoke alarms and smoke alarms complying with those requirements are already provided;

(ii) Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke

alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation;

(iii) Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms;

(2) *Group R-1.* Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

(a) In sleeping areas;

(b) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit;

(c) In each story of the sleeping unit, including basements. For sleeping 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;

(3) *Groups R-2, R-3, R-4 and I-1.* Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:

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

(b) In each room used for sleeping purposes;

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

(4) *Installation near cooking appliances.* Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 158.44 (F)(2) or 158.44 (F)(3).

(a) Ionization smoke alarms shall not be installed less than twenty (20) feet (6096mm) horizontally from a permanently installed cooking appliance;

(b) Ionization smoke alarms with an alarm-silencing switch shall not be installed less than ten (10) feet (3048mm) horizontally from a permanently installed cooking appliance;

(c) Photoelectric smoke alarms shall not be installed less than six (6) feet (1829mm) horizontally from a permanently installed cooking appliance.

(5) *Installation near bathrooms.* Smoke alarms shall be installed not less than three (3) feet (914mm) horizontally from the door or opening of a bathroom that contains a tub or shower unless this would prevent placement of a smoke detector required by Section 158.44 (F) (2) or 158.44 (F) (3).

(6) *Interconnection.* Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly auditable in all bedrooms over background noise levels with all intervening doors closed.

(a) *Exceptions:*

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

(ii) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

(7) *Power source.* Single-station smoke alarms shall receive their primary power from the building wiring provided such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

(a) *Exceptions:*

(i) Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.

(ii) Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.

(iii) Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

(8) *Smoke detection system.* Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:

(a) The fire alarm system shall comply with all applicable requirements in Section 907 of the Ohio Fire Code.

(b) Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the dwelling or sleeping unit in accordance with Section 907.5.2 of the Ohio Fire Code.

(c) Activation of a smoke alarm in a dwelling or sleeping unit shall not activate alarm notification appliances outside of the dwelling or sleeping unit, provided that the supervisory signal is generated and monitored in accordance with Section 907.6.6 of the Ohio Fire Code.

(G) *Single- and multiple-station smoke alarms.* Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacture's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms in one- and two-family dwellings shall be replaced not more than ten (10) years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacturing cannot be determined.

#### **§158.45 UNOCCUPIED, VACANT, & ABANDONED STRUCTURES. CARBON MONOXIDE ALARMS AND DETECTION.**

(A) *General.* ~~Every foundation, exterior floor, exterior wall, exterior window, exterior door, soffit, fascia, roof and any other area of the exterior envelope of every unoccupied, vacant or abandoned structure shall be maintained and kept in good repair and in such safe condition so as to make interior areas weathertight, watertight, and rodent proof so as to prevent the structure from becoming harbors for rats, vermin or insects, to prevent unauthorized entry of the structures and to eliminate unsafe conditions.~~ Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the Ohio Fire Code, except that alarms in dwellings covered by the Residential Code of Ohio shall be installed in accordance with Section R315 of that code.

(B) *Minimum standards for effective boarding.* ~~The effective boarding of a structure shall include but not be limited to, doors, windows, walls, roofs or other areas open to ingress or egress and weather elements. Such openings shall be secured by exterior grade structural panels not less than ½ inch thick, or other material of equal strength approved by the Code Official. Boarding shall be neatly cut and fitted into the opening and secured. All boarding shall be painted to match the exterior color scheme of the structure.~~ *Carbon monoxide alarms and detectors.* Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

(C) *Unsecure vacant buildings.* ~~Whenever the Code Official finds an unoccupied, vacant or abandoned structure open to entry, the Code Official contact the owner, lessee, agent, or tenant having charge of the property, premises, or structure and notify them that the structure is open and shall be secured. Should the whereabouts of the owner, lessee, agent, or tenant having charge of~~

~~the property, premises, or structure be unknown or be unascertainable by reasonable means or should the owner, lessee, agent, or tenant having charge of the property, premise, or structure fail to secure the open structure, the Code Official shall cause the structure to be secured at those points of entry. The Code Official shall be authorized to enter upon the premises only to the extent to secure the structure. Subsequent notice shall include the fact that the Code Official has found it necessary to take such appropriate action to secure the structure.~~

~~(D) In the event the owner, lessee, agent, or tenant having charge of the property, premises, or structure fails to secure the open structure or after reasonable attempts to contact the owner, lessee, agent, or tenant having charge of the property, premise, or structure to notify them to secure the structure have failed, the City Manager or his/her designee is hereby authorized to have the structure secured by a private contractor and to invoice the owner for the costs incurred by the city in having such structure secured. Including an administrative fee assessed at the current rate set forth in Chapter 36, General Fees Schedule, of the Codified Ordinances of the City of West Carrollton. In the event the costs are not paid within 30 days after mailing of the invoice, then such amount shall be certified to the County Auditor for collection, the same as other taxes or assessments are collected.~~

## **BOARDING STANDARDS**

### **§158.456 UNOCCUPIED, VACANT, & ABANDONED STRUCTURES.**

(A) *General.* Every foundation, exterior floor, exterior wall, exterior window, exterior door, soffit, fascia, roof and any other area of the exterior envelope of every unoccupied, vacant or abandoned structure shall be maintained and kept in good repair and in such safe condition so as to make interior areas weathertight, watertight, and rodent proof so as to prevent the structure from becoming harbors for rats, vermin or insects, to prevent unauthorized entry of the structures and to eliminate unsafe conditions.

(B) *Minimum standards for effective boarding.* The effective boarding of a structure shall include, but not be limited to, doors, windows, walls, roofs or other areas open to ingress or egress and weather elements. Such openings shall be secured by exterior grade structural panels not less than ½ inch thick, or other material of equal strength approved by the Code Official. Boarding shall be neatly cut and fitted into the opening and secured. All boarding shall be painted to match the exterior color scheme of the structure.

(C) *Unsecure vacant buildings.* Whenever the Code Official finds an unoccupied, vacant or abandoned structure open to entry, the Code Official shall contact the owner, lessee, agent, or tenant having charge of the property, premise or structure and notify them that the structure is open and shall be secured. Should the whereabouts of the owner, lessee, agent, or tenant having charge of the property, premise or structure be unknown or be unascertainable by reasonable means or should the owner, lessee, agent, or tenant having charge of the property, premise or structure fail to secure the open structure, the Code Official shall cause the structure to be secured at those points of entry. The Code Official shall be authorized to enter upon the premises only to the extent to secure the structure. Subsequent notice shall include the fact that the Code Official has found it necessary to take appropriate action to secure the structure.

(D) In the event the owner, lessee, agent, or tenant having charge of the property, premise or structure fails to secure the open structure or after reasonable attempts to contact the owner, lessee, agent, or tenant having charge of the property, premise or structure to notify them to secure the structure have failed, the City Manager or his/her designee is hereby authorized to have structure secured by a private contractor and to invoice the owner for the cost incurred by the city in having such structure secured, including an administrative fee assessed at the current rate as set forth in Chapter 36, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton. In the event the cost are not paid within 30 days after mailing of the invoice, then such amount shall be certified to the County Auditor for collection, the same as other taxes or assessments are collected.

## **RESIDENTIAL RENTAL REGISTRATION & EDUCATION PROGRAM**

### **§158.467 GENERAL.**

(A) The purposes of this section are to protect the public health, safety, and welfare by establishing minimum standards and procedures governing the maintenance, appearance, and condition of all rental housing properties; to impose certain responsibilities and duties upon the Owner, Responsible Agent, and Tenant and to ensure they are educated about those responsibilities; to authorize and establish procedures for mandatory registration and exterior inspections of rental property to ensure compliance with the Property Maintenance Code, Zoning Code, Ohio Building Code, Ohio Fire Code, and the Residential Code of Ohio; and to fix penalties for violations of this section. This section is hereby declared to be remedial and essential for the public interest, and it is intended that this section be liberally construed to effectuate the purpose as stated herein.

(B) This section shall apply to all Rental Units and/or Rental Property and shall also apply to all common areas within the structure(s) or on the premises.

(C) Administration of the Residential Rental Registration & Education Program in no way negates or eliminates the right of the Code Official to request, be invited or to seek an administrative search warrant to conduct an interior inspection of any Rental Unit and/or Rental Property as provided by Section 158.04 of this Chapter.

### **§158.478 REGISTRATION REQUIRED.**

(A) Owners of one or more Rental Units and/or Rental Property located within the city of West Carrollton shall comply with all requirements of the Montgomery County Residential Rental Property Registration program enabled by Ohio Revised Code Chapter 5323: Residential Rental Property no later than June 30, 2017.

(B) Owners of one or more Rental Units and/or Rental Property located within the city of West Carrollton shall update the information required under division (A) of this section within sixty (60) days after any change in the information occurs, as required by Ohio Revised Code Chapter 5323.02(C).

**§158.489 INSPECTION REQUIRED.**

(A) The Code Official shall inspect the exterior of all Rental Units and/or Rental Property, as well as the interior common areas of multi-family residential rental buildings, once every two (2) years to determine compliance with the Property Maintenance Code, Zoning Code, Ohio Building Code, Ohio Fire Code, and the Residential Code of Ohio.

(B) The Code Official shall conduct all inspections in accordance with the requirements of Section 158.04 of this code, and shall obtain affirmative consent by the Owner, Responsible Agent, and/or Tenant to access the front, side and rear yards of the property and the interior common areas of multi-family residential rental buildings. If said consent is not granted, the Code Official may seek an administrative warrant as provided by law to gain access to the property in order to conduct the inspection.

(C) The Owner and Responsible Agent have no legal obligation to obtain from any Tenant, on behalf of the Code Official, consent for the Code Official to perform any inspection or re-inspection.

(D) A scheduled inspection or re-inspection may be rescheduled with no less than seven (7) days prior notice to the Code Official without incurring a re-inspection fee as provided in Section 158.501.

**§158.4950 NOTIFICATION.**

(A) Within ninety (90) days after the effective date of this ordinance, the Code Official shall issue written notification to all known Owners of Rental Units and/or Rental Property located within the city of West Carrollton describing the requirements of the Residential Rental Registration & Education Program and the penalties for failing to comply with said requirements. This notification shall be delivered by ordinary mail to the Owner's last known mailing address, and shall be evidenced by a certificate of mailing.

(B) Thereafter, the Code Official shall annually cause a notice to be published in a newspaper of general circulation within the city, placing Owners of Rental Units and/or Rental Property on notice regarding the requirements of the Residential Rental Registration & Education Program and the penalties for failing to comply with said requirements. The notice shall not be required to describe the lands or to specify the name of the Owner of said property, but shall constitute notice regarding the program to any Owner, Responsible Agent, or Tenant having charge of any Rental Unit and/or Rental Property which is Let for Occupancy, Let or Leased for residential purposes. Such notice shall be published one time in order to constitute notice hereafter. No further notice or publication shall be required in order to institute appropriate action to restrain, correct or abate a violation of this program.

(C) The Code Official shall establish an inspection schedule identifying the month and year when all registered Rental Units and/or Rental Property are anticipated to be inspected during the initial two (2) year inspection period. As soon as practicable, the Code Official shall issue notification to all Owners and Responsible Agents by ordinary mail and/or posting on the

property as to the anticipated month and year in which their initial inspection will be conducted. Owners and/or Responsible Agents shall communicate this information in writing to all Tenants as soon as practicable after receiving notice from the Code Official.

(D) At least two (2) weeks prior to the date of the inspection of a Rental Unit and/or Rental Property, the Code Official shall issue notification to the Owner and Responsible Agent by ordinary mail and/or posting on the property of the inspection date and time. This notice shall inform the Owner and Responsible Agent that affirmative consent is needed in order for the Code Official to enter upon private property, and if that consent is not granted the Code Official may seek an administrative warrant as provided by law to gain access to the property in order to conduct the inspection. Owners and/or Responsible Agents shall communicate this information in writing to all Tenants as soon as practicable after receiving notice from the Code Official, but no later than 72 hours prior to the scheduled inspection time.

### **§158.501 VIOLATIONS AND PENALTIES.**

(A) *Registration.* A late fee as set forth in Chapter 37: General Fee Schedule shall be instituted for failure to comply with the registration requirements of Section 158.478, and shall be paid by the Owner or Responsible Agent who is responsible for correcting the violations. Notice shall be accompanied by a statement of the amount of cost incurred, and in the event the same is not paid within thirty (30) days after the mailing of the notice, then such amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected.

(B) *Inspections.*

(1) Failure of an Owner, Responsible Agent, or Tenant of a Rental Unit and/or Rental Property to appear for a scheduled inspection or re-inspection shall result in a re-inspection fee being charged as set forth in Section 158.13 of this code. No Owner shall be penalized where any inspection or re-inspection is delayed or does not occur as the result of actions by the Tenant, provided neither party has colluded or attempted to collude with the other to delay or prevent said inspection from being conducted.

(2) Whenever the Code Official determines during an inspection that one or more violations exist in a Rental Unit and/or on a Rental Property, a notice of violation or order shall be given to the Owner and Responsible Agent in accordance with the provisions of Section 158.07 of this code.

(3) Failure to comply with a notice of violation or order issued in accordance with Section 158.501 (B)(2) shall result in a re-inspection fee being assessed to the Rental Unit and/or Rental Property as set forth in Section 158.13 of this code. The Owner and Responsible Agent shall also be subject to recourse pursuant to Section 158.06 of this code.

(C) *Education.* An Owner or Responsible Agent of a Rental Unit and/or Rental Property who has been issued a notice of violation or order containing life safety violations in two successive inspections shall be required to attend a landlord continuing education course approved by the Code Official in consultation with rental industry representatives. Written

verification of the completion of the continuing education course by the Owner or Responsible Agent shall be provided to the Code Official by the education provider.

(D) An Owner or Responsible Agent failing to comply with any requirement of the Residential Rental Registration & Education Program shall also be subject to recourse pursuant to Section 158.99 of this code.

(E) A proper and timely filed appeal as provided in Section 158.512 shall stay any and all enforcement proceedings until a final decision is rendered regarding said appeal.

**§158.512 APPEAL.**

Any Owner aggrieved by the action of the Code Official in the administration and/or enforcement of this section shall have the right to appeal that action to the Board of Zoning Appeals in the manner prescribed in Section 158.12 of this code.

**§158.523 DISCLAIMER OF LIABILITY.**

An inspection is not a warranty or guarantee that there are no defects in the Rental Unit or on the Rental Property, and the Code Official shall not be liable to any person or entity for the condition of the Rental Unit and/or Rental Property.

**§158.534 SEVERABILITY.**

If any section, paragraph, sentence, clause or phrase of the Residential Rental Registration & Education Program shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of the Residential Rental Registration & Education Program, which shall remain in full force and effect.

**Table 158.97  
Property Maintenance and Nuisance Compliance Times\***

<b>Violation</b>	<b>Section Number</b>	<b>Compliance time</b>
Unsafe Structures & Equipment	158.08 (all)	Immediate
Emergency Measures	158.09 (all)	Immediate
Public Nuisance Declaration Process	<del>158.10 (all)</del>	<del>Reference Ordinance</del>
Demolition	158.11 (all)	Immediate to 45 days
General requirements	158.15 (all)	Immediate to 30 days
Sanitation	158.16(A)	Immediate to 5 days
Grading and Drainage	158.16(B)	15 to 30 days
Sidewalks, Curbs and Driveways	158.16 (C)	Immediate to 45 days
Weeds and Grasses	158.16(D)	Reference Ordinance
Trees and shrubs	158.16(E)	Immediate to 30 days
Rodent harborage	158.16(F)	Immediate to 10 days
Exhaust vents	158.16(G)	10 to 30 days

Accessory structures	158.16(H)	Immediate to 45 days
Motor <b>and recreational</b> vehicles	158.16(I)	Reference Ordinance
Unpaved parking	158.16(J)	24 hours
Defacement of property	158.16(K)	Immediate to 30 days
Ground cover	158.16(L)	15 to 30 days
Traffic markings	158.16(M)	15 to 45 days
Lighting	158.16(N)	24 hours to 5 days
Storing construction materials	158.16(O)	Reference Ordinance
Outside Storage – Occupied Properties	158.16(P)	Immediate to 5 days
Outside Storage – Vacant Properties	158.16(Q)	5 Days
Firewood	158.16(R)	Immediate to 5 days
Swimming pools	158.17(A)	<del>Immediate to 45 days</del> <b>Reference Ordinance</b>
Swimming pool enclosures	158.17(B)	Immediate
<b>Exterior structure general</b>	<b>158.18 (A)</b>	<b>Immediate to 30 days</b>
Protective treatment	158.18(B)	15 to 45 days
Premises identification	158.18(C)	Immediate to 10 days
Structural members	158.18(D)	Immediate to 45 days
Foundation walls	158.18(E)	Immediate to 45 days
Exterior walls	158.18(F)	Immediate to 45 days
Roofs and drainage	158.18(G)	Immediate to 45 days
Decorative features	158.18(H)	Immediate to 45 days
Overhang extensions	158.18(I)	Immediate to 45 days
Stairways, decks, porches & balconies	158.18(J)	Immediate to 45 days
Chimneys and towers	158.18(K)	Immediate to 45 days
Handrails and guards	158.18(L)	Immediate to 45 days
Windows, skylights & door frames	158.18(M)	Immediate to 45 days
Insect screens	158.18(N)	15 to 45 days
Doors	158.18(O)	Immediate to 30 days
Basement hatchways	158.18(P)	Immediate to 30 days
Guards for basement windows	158.18(Q)	Immediate to 30 days
Building security	158.18(R)	Immediate to 30 days
<b>Gates</b>	<b>158.18 (S)</b>	<b>Immediate to 30 days</b>
Interior structures - General	158.19(A)	Immediate to 30 days
Structural members	158.19(B)	Immediate to 45 days
Interior surfaces	158.19(C)	Immediate to 30 days
Stairs and walking surfaces	158.19(D)	Immediate to 45 days
Handrails and guards	158.19(E)	Immediate to 45 days
Interior doors	158.19(F)	Immediate to 30 days
<del>Handrails and guards</del> <b>Component</b> <b>Serviceability</b>	158.20(A)	Immediate to 45 days
Rubbish and garbage	158.21(all)	Reference Ordinance
Extermination	158.22(all)	Immediate to 10 days
Light, Ventilation & occupancy limitations	158.23(all)	Immediate to 30 days

Light	158.24(all)	Immediate to 30 days
Ventilation	158.25(all)	Immediate to 30 days
Occupancy limitations	158.26(all)	Immediate to 30 days
Plumbing facilities and requirements	158.27(all)	Immediate to 45 days
Required facilities	158.28(all)	Immediate to 45 days
Toilet rooms	158.29(all)	Immediate to 45 days
Plumbing systems and fixtures	158.30(all)	Immediate to 45 days
Water systems	158.31(all)	Immediate to 45 days
Sanitary drainage systems	158.32(all)	Immediate to 45 days
Storm drainage	158.33(all)	Immediate to 30 days
Mechanical and electrical requirements	158.34(all)	Immediate to 30 days
Heating facilities	158.35(all)	Immediate to 30 days
Mechanical equipment	158.36(all)	Immediate to 30 days
Electrical facilities	158.37(all)	Immediate to 30 days
Electrical equipment	158.38(all)	Immediate to 30 days
Elevators, escalators and dumbwaiters	158.39(all)	Immediate to 30 days
Duct systems	158.40(all)	Immediate to 45 days
Fire safety requirements	158.41(all)	Immediate to 45 days
Means of egress	158.42(all)	Immediate to 45 days
Fire - resistance ratings	158.43(all)	Immediate to 45 days
Fire - protection systems	158.44(all)	Immediate to 45 days
Carbon monoxide alarms and detectors	158.45	Immediate to 45 days
Unoccupied, Vacant & Abandoned Structures	158.456 (all)	Reference Ordinance
RRR & E Program	158.47-158.53	Reference Ordinance

\* These are typical compliance time limits. They can vary depending on season, circumstance of violation, progress made by violator, extensions, etc.

## REFERENCED STANDARDS

### 158.98 REFERENCED STANDARDS.

This section lists the standards that are referenced in various sections of this document. The application of the standards shall be as specified in Section 158.02(G). The most current standard shall apply.

#### Standards

Residential Code of Ohio

Ohio Building Code

National Electrical Code

Ohio Fire Code

Ohio Plumbing Code

Ohio Mechanical Code

~~International Building Code~~

~~International Existing Building Code~~

~~International Fire Code~~

~~International Mechanical Code~~

~~International Plumbing Code~~

~~International~~

Ohio Department of Transportation, Manual of Uniform Traffic Control Devices (MUTCD)

West Carrollton Chapter 152, Subdivision Code

West Carrollton Chapter 153, Sign Code

West Carrollton Chapter 154, Zoning Code

West Carrollton Chapter 156, Flood Damage Prevention Code

## PENALTIES

### 158.99 PENALTY

Any person who shall violate a provision of this chapter shall, upon conviction thereof, be subject to the following penalties at the discretion of the court.

(A) A first offense shall be deemed a fourth-degree misdemeanor. The court shall impose upon the offender a fine of not more than two hundred fifty dollars (\$250) but not less than one hundred fifty dollars (\$150), or may impose a sentence of imprisonment for not more than thirty (30) days, or may impose both such a fine and sentence of imprisonment.

(B) A second offense (whether or not of the same section of this chapter), occurring not sooner than one hundred eighty (180) days and not later than two years after the occurrence of the first offense, shall be deemed a third-degree misdemeanor. The court shall impose upon the offender a fine of not more than five hundred (\$500) dollars but not less than two hundred fifty (\$250) dollars, or may impose a sentence of imprisonment for not more than sixty (60) days, or may impose such a fine and sentence of imprisonment.

(C) A third offense (whether or not of the same section of this chapter), occurring not sooner than one hundred eighty (180) days and not later than two years after the occurrence of the second offense, shall be deemed a second-degree misdemeanor. The court shall impose upon the offender a fine of not more than seven hundred fifty (\$750) dollars but not less than five hundred (\$500) dollars, or may impose a sentence of imprisonment for not more than ninety (90) days, or may impose such a fine and sentence of imprisonment.

(D) A fourth or any subsequent offense (whether or not of the same section of this chapter), occurring not sooner than one hundred eighty (180) days and not later than two years after the occurrence of the third offense, shall be deemed a first-degree misdemeanor. The court shall impose upon the offender a fine of not more than one thousand (\$1000) dollars but not less than seven hundred fifty (\$750) dollars, or may impose a sentence of imprisonment for not more than six (6) months, or may impose such a fine and sentence of imprisonment.

(E) Pursuant to Section 158.06 (E), cost incurred for actions taken at the direction of the legal officer to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises shall be recovered as follows:

(1) If the owner of the property, premise or structure fails to comply with a notice or order within the time prescribed, the City Manager or his/her designee may cause such violation(s) to be abated, either through an available public agency or by contract or arrangement with private persons, and the cost of such abatement shall be billed to the owner for the amount incurred by the city in having such violation(s) abated, including an administrative fee assessed at the current rate as set forth in Chapter 376, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton. In the event the cost, are not paid within 30 days after mailing of the bill, then such amount shall be entered upon the tax duplicate and shall constitute a lien upon such lands from the date of the entry, and shall be collected as other taxes and returned to the city's general fund.

## EXHIBIT B

**Key:**

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### Chapter 37, General Fees Schedule

**37.36 Late Fee – Residential Registration & Education Program.**

A late fee of one hundred and fifty dollars (\$150) for the first year, three hundred and fifty dollars (\$350) for the second year, and five hundred dollars (\$500) for the third and subsequent years thereafter shall be instituted for failure to comply with the registration requirements of Section 158.47~~8~~ of the Property Maintenance Code, and shall be paid by the Owner or Responsible Agent who is responsible for correcting the violations. Notice shall be accompanied by a statement of the amount of costs incurred, and in the event the same is not paid within thirty (30) days after mailing of the notice, then such amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected.