

ORDINANCE NO. 17-22

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, AMENDING CHAPTER 150 OF TITLE XV OF ORDINANCE NO. 05-47 (COLUMBUS CITY CODE) BY ADOPTING THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE BY REFERENCE, AMENDING THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE AS SET FORTH HEREIN; ESTABLISHING THE MINIMUM REGULATIONS GOVERNING CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS, AND STRUCTURES IN THE CITY OF COLUMBUS AND ITS ZONING TERRITORIAL JURISDICTION, PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPANCY AND USE, PROVIDING FOR THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY USE, AND THE DEMOLITION OF SUCH STRUCTURES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM, AND PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, to adopt the 2012 International Property Maintenance Code and amend the 2012 International Property Maintenance Code as set forth herein.

SECTION 1. That Chapter 150 of Title XV of the Columbus City Code be amended to add a Section as follows:

ADOPTION OF THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE:

The International Property Maintenance Code, 2012 edition as established by the International Code Council, at least one copy of said book is filed in the office of the City Clerk and the same is hereby adopted as the Property Maintenance Code of the City of Columbus, in the State of Nebraska, for regulating and governing the conditions and maintenance of all property, buildings and structures, by providing the standards for supplied utilities facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collections of fees therefore, and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to,

adopted, and made a part hereof, as if fully set out in this legislation, with additions, insertions, deletions and changes, if any, as prescribed in Section 2 of this ordinance

SECTION 2. That Chapter 150 of Title XV of the Columbus City Code be amended to add a Section that amends the 2012 International Property Maintenance Code as follows

AMENDMENTS, ADDITIONS, AND DELETIONS TO 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE.

- a. Section 101.1 is amended to read
Title. These regulations shall be known as the *International Property Maintenance Code* of the City of Columbus, herein referred to as 'this code'.
- b. Section 101 2 is amended to read:
Scope The provisions of this code shall apply to all existing residential structures and nonresidential structures and all existing property and premises and constitute minimum requirements and standards for premises, property, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe, sanitary, and adequate maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement, and penalties The jurisdiction will include the City of Columbus and all that territory within its statutorily allowed zoning jurisdiction as allowed under Nebraska Revised Statutes § 16-901.
- c. Section 102.3 is amended to read:
Application of other codes Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Energy Conservation Code, International Fire Code, International Residential Code, Uniform Plumbing Code, NFPA 70, and all other codes that are or that may be adopted by the City of Columbus Nothing in this code shall be construed to cancel, modify, or set aside any provision of the International Zoning Code.
- d. Section 102.7 is amended to read.
Referenced codes and standards The codes and standards referenced in this code shall be those adopted by the City of Columbus and considered part of the requirements of this code to the prescribed extent of each such reference as further regulated in Sections 102 7 1 and 102 7 2
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
- e. Section 103 2 is amended to read
Appointments The code official shall be the person as defined in Section 202 of this code.
- f. Section 103.4 is amended to read:
Liability The code official, City Administrator, Community Development Director, any other employee or agent of the City of Columbus charged with or delegated

with the enforcement of this code, while acting for the City of Columbus, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all liability personally, and is hereby relieved from all personal liability for any damage accruing to the persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against said individuals because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the City of Columbus until the final termination of the proceedings. Said person shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

g. Section 103.5 is amended to read:

Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code will be assessed to reimburse the City of Columbus for expenses incurred and/or as set by resolution.

h. Section 106.3 is amended to read:

Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding administratively, 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 become a lien upon such real estate.

i. Section 106.4 is amended to read:

Violation penalties. Any person upon whom a duty is placed by the provisions of this title who shall fail, neglect, or refuse to perform such duty, or who shall violate a provision of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$500 or be imprisoned in the county jail for a period not to exceed six months, or both, except that each person so convicted shall be fined in a sum of not less than \$200 for the first offense, not less than \$300 for a second offense, and not less than \$400 for the third offense and each offense thereafter. The penalty herein provided shall be cumulative with and in addition to the revocation, cancellation, or forfeiture of any license, permit, or right elsewhere provided for violation thereof or as provided by law. Each day that a violation of this title continues shall constitute a separate and distinct offense and shall be punishable as such.

j. Section 107.2 is amended to read:

Form. Such notice prescribed in section 107.1 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 allowing a reasonable time to make the repairs and improvements required to bring the property, dwelling unit, or structure into compliance with the provision of this code
- 5 Inform the property owner of the right to appeal.
- 6 Include a statement of the right to file a lien in accordance with Section 106.3.

k. Section 108.1.1 is amended to read:

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 other life threatening events, 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.

l. Section 108.1.3 is amended to read:

Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, is a nuisance, or lacks ventilation, illumination, or heating facilities or other essential requirements of this code, or the location of the structure constitutes a hazard to the occupants of the structure or to the public. Whenever the health officer finds that such structure, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or is a nuisance, such structure shall be unfit for human occupancy and the health officer shall make such finding to the code official.

m. Section 110.1 is amended to read:

General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure, or if such structure is capable of being made safe by repair, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owners option, or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official/or code official. In the event the structure and premises upon which the structure is located are in separate ownership, then both the owner of the structure and the owner of the premises shall be responsible for said removal.

n. Section 110.3 is amended to read:

Failure to Comply If the owner of a premises fails to comply with a demolition within the time prescribed, the code official may 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

o. Section 111.1 is amended to read

Application for appeal to City Administrator. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the City Administrator, provided that a written application of appeal is filed within 20 days after the day the decision, notice or order was served. An application of appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means

p. Section 111.1.1 is added.

Appeal Hearing with City Administrator. When an appeal to the City Administrator has been properly and timely requested, the City Administrator shall:

- 1 Schedule a hearing within five working days of receipt of the hearing request.
 - a Written notice of the hearing date and time shall be provided to the owner and occupant (if known)
 - b The hearing may be continued to a later time in cases where additional information is needed, as determined by the City Administrator
- 2 Review all report(s), violation notice(s) and other relevant information presented.
- 3 Conduct a hearing
 - a At the hearing, the owner, occupant, and/or his agent shall be given the opportunity to present information and evidence relevant to the violation notice, reports, or orders
 - b The Code Official or his designated representative also shall be given the opportunity to present information and evidence relevant to the violation notice, reports, or orders.
 - c The hearing may be conducted in an informal manner which shall be flexible enough for the City Administrator to consider evidence, including letters, affidavits, report(s), violation notice(s), and other relevant information.
- 4 Render a written order within five calendar days of the hearing.
 - a In that decision the City Administrator shall determine if from the testimony and evidence offered whether or not the building, structure, or property in question is in violation of this code
 - b. Should a violation of this code be found, the City Administrator shall order the owner, occupant, or other persons having an interest in the building, structure, or property to repair, alter or demolish the building in accordance with the terms listed in said order within a reasonable amount of time. Said reasonable amount of time must be longer than

the time frame allowed for the filing of an application for appeal to the Board of Appeals.

- q. Section 111.1.1.1 is amended to read
Administration of City Administrator's order. The code official shall take action in accordance with the decision of the City Administrator following the expiration of any and all applicable appeal periods and the expiration of the reasonable time determination in the City Administrator's order
- r. Section 111.1.2 is added:
Application for appeal to Board of Appeals. Any person directly affected by a decision, finding of or by an order of the City Administrator issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application of appeal is filed within 20 days after the day the City Administrator's decision or order was served. An application of appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. In the rare situation where the City Administrator has acted as the code official, any person directly affected by a decision of the City Administrator or a notice or order issued under this code shall have the right to appeal directly to the Board of Appeals as set forth in Section 111 of this code
- s. Section 111.1.3 is added:
Effect of failure to appeal. Failure of any person to file an appeal (either to the City Administrator or to the Board of Appeals) shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or to any portion thereof.
- t. Section 111.6.2 is amended to read:
Appeal of Board's decision. The decision of the Board of Appeals may be appealed to the City Council
- u. Section 111.6.3 is added.
Administration. The code official shall take immediate action in accordance with the decision of the Board of Appeals following the expiration of any and all applicable periods concerning the decision of the Board of Appeals.
- v. Section 111.7 is amended to read
Application for appeal to City Council. Any person directly affected by a decision, finding or order of the Board of Appeals issued under this code shall have the right to appeal to the City Council, provided that a written application of appeal is filed within 20 days after the day the decision, notice, or order was served. An application of appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means
- w. Section 111.7.1 is added:
Scope of hearing on appeal in front of the City Council. Only those matters or issues specifically raised by the appellant regarding the decision of the Board of Appeals shall be considered in the hearing of the appeal in front of the City Council

- x.** Section 111.7 2 is added
Procedure for hearing on appeal to the City Council. The procedures for hearings conducted in front of the City Council shall be as follows:

 - 1 The hearing in front of the City Council shall take place at a date when the City Council normally meets within 30 days of the date of appellant's proper filing of such appeals application.
 - 2 Hearings will be conducted in accordance with Rules of the City Council of Columbus, Nebraska.
 - 3 The Mayor shall preside and lead the hearing and discussion Council members are entitled to ask questions of the appellant, the code official, the City Administrator, or their duly authorized representatives
 4. A Board of Appeals decision may only be overturned or modified a by a majority vote of the members of the City Council The Mayor may only vote when his or her vote will provide the additional vote required to create a number of votes equal to the majority of the number of members elected to the City Council, and the mayor shall, for the purposes of such vote, be deemed to be a member of the council.
- y.** Section 111.8 is amended to read
Court Review. Appeal of the City Council's decision shall be filed in accordance with state law.
- z.** Section 111 9 is added.
Stays of Enforcement. Appeals of notice, findings, and orders (other than Imminent Danger notices) shall stay the enforcement and of the notice and order until the appeal is heard at the appropriate level Should an appeal be taken to the Courts, there is no stay of enforcement unless the Court authorizes an injunction
- aa.** Section 112 4 is amended to read
Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less then \$200 or more than \$500.
- bb.** Section 201.3 is amended to read
Terms defined in other codes Where terms are not defined in this code but are defined in other codes that are adopted, or which may later be adopted, by the City of Columbus, such terms shall have the meanings ascribed to them as stated in those codes
- cc.** Section 202 only the following definitions are amended to read (all other definitions in Section 202 of the 2012 International Property Maintenance Code which are not listed below shall remain as defined):
[A] CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative The code official shall be the Community Development Director for the City of Columbus, or any duly authorized representative of that person. Should the position of Community Development Director be vacant, the code official shall be the acting City Administrator for the City of Columbus, or any duly authorized representative of that person

[B] DWELLING UNIT A single unit and/or structure providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation

[A] STRUCTURE. That which is built, manufactured, or constructed, which may be affixed or non-affixed to the premises or property, or a portion thereof

dd.Section 301.2 is amended to read:

Responsibility The owner of the premises or property 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. Owners and 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

ee.Section 302.4 is amended to read:

Weeds All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens

Upon Failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

ff. Section 303 is hereby deleted in its entirety.

gg.Section 304.14 is amended to read:

Insect Screens. During the period from April 1st to October 31st every year, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service area, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition

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

hh.Section 502.5 is amended to read:

Public Toilet Facilities. Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the Uniform 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

ii. Section 505 1 is amended to read.

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 Uniform Plumbing Code

jj. Section 602.2 is amended to read

Residential Occupancies Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms based on the outdoor winter design temperature of -3°F (-19°C) Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception

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

kk. Section 602.3 is amended to read.

Heat Supply Every owner and operator of any building who rents, leases, or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1st to May 31st every year to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions:

1. 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 -3°F (-19°C)
2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

II. Section 602.4 is deleted.

SECTION 3. That if any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional or in violation of state law, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of Columbus hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses and phrases be declared unconstitutional.

SECTION 4: Nothing in this ordinance or in the 2012 International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of action acquired or existing under any act or ordinance hereby repealed, nor shall any just or legal remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 5 This Ordinance shall repeal all ordinances or portion thereof in conflict herewith. This ordinance shall be in full force and effect after its passage, adoption and publication as provided by law. Publication shall be in pamphlet form as authorized by Section 16-405 of Nebraska Revised Statutes with distribution to be made by making copies available to the public upon request at the city offices.

INTRODUCED BY COUNCIL MEMBER

John J. Lohr

PASSED AND ADOPTED THIS

16

DAY OF

October

, 2017.

Tom B. Buckley
MAYOR

ATTEST.

Janella Kline
CITY CLERK

APPROVED AS TO FORM

M. V. [Signature]
CITY ATTORNEY



NOTICE OF PUBLICATION
OF ORDINANCE NO. 17-22
IN PAMPHLET FORM

Public Notice is hereby given that at a meeting of the Mayor and Council of the City of Columbus, Nebraska, held at 7 p.m. on Monday, October 16, 2017, there was passed and adopted Ordinance No. 17-22 entitled:

CITY OF COLUMBUS, NEBRASKA
ORDINANCE NO. 17-22

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, AMENDING CHAPTER 150 OF TITLE XV OF ORDINANCE NO. 05-47 (COLUMBUS CITY CODE) BY ADOPTING THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE BY REFERENCE; AMENDING THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE AS SET FORTH HEREIN; ESTABLISHING THE MINIMUM REGULATIONS GOVERNING CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS, AND STRUCTURES IN THE CITY OF COLUMBUS AND ITS ZONING TERRITORIAL JURISDICTION; PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPANCY AND USE; PROVIDING FOR THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY USE, AND THE DEMOLITION OF SUCH STRUCTURES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR AN EFFECTIVE DATE.

Said ordinance has been published in pamphlet form. Copies of said ordinance as published in pamphlet form are available for inspection and distribution at the office of the City Clerk at City Hall, 2424 14 Street, Columbus, Nebraska, during regular business hours.


City Clerk

Publish: 10:20:17
Two Affidavits of Publication

