

ORDINANCE NO. ____

TITLE ____

PROPERTY STANDARDS, HEALTH AND SANITATION

- Chapters: 11.01 General
11.02 Applicability
11.03 Department of Property Maintenance Inspection.
11.04 Duties And Powers of Code Officials.
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CHAPTER 11.01 GENERAL

- Sections: 11.01.010 Title
11.01.020 Scope
11.01.030 Intent
11.01.040 Severability

11.01.010 Title. These regulations shall be known as the Property Maintenance Code of the City of Madison, hereinafter referred to as “this code”.

11.01.020 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitutes minimum requirements and standards for ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance of property and premises and for public welfare, the occupancy of existing structures and premises, and for administration, enforcement and penalties.

11.01.030 Intent. This code was prepared to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by city ordinances or otherwise available at law, whereby a public nuisance located on any premises or public property which from any cause endangers the life, limb, morals, public health, safety, property and welfare or which tends to lower the value of adjacent real property because of unsightliness may be required to be repaired, removed or abated.

11.01.040 Severability. If a section, subsection, sentence, clause of 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.

CHAPTER 11.02 APPLICABILITY

Sections: 11.02.010 General
11.02.020 Maintenance
11.02.030 Workmanship
11.02.040 Historic Buildings
11.02.050 Requirements not covered by code

11.02.010 General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 11.01. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

11.02.020 Maintenance. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

11.02.030 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 workmanlike manner and installed in accordance with the manufacturer's installation instructions.

11.02.040 Historic buildings. This code shall not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

11.02.050 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official(s).

CHAPTER 11.03 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

Sections: 11.03.010 General
11.03.020 Appointment
11.03.030 Restrictions of employees
11.03.040 Fees

11.03.010 General. The Property Standards Inspection Committee is hereby created and the executive official(s) in charge thereof shall be known as the code official(s).

11.03.020 Appointment. Code official(s) shall be appointed by the Mayor or Council of Madison and the code official(s) may be the City Attorney, City Engineer, Fire Chief, Police Chief, Finance Officer, and Planning and Zoning Chairman or any outside qualified expert needed to aid other code official in determinations. Code official(s) can appoint private related technical officers, inspectors and other employees.

11.03.030 Restriction of employees. An official or employee connected with the enforcement of this code, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

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

Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the City of Madison until the final termination of the proceedings. The code officials or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code. Any officer of the Committee of Property Maintenance Inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reasons of any act or omission in the performance of official duties in connection therewith.

CHAPTER 11.04 DUTIES AND POWERS OF THE CODE OFFICIAL(S)

Sections: 11.04.010 General
 11.04.020 Rule making authority
 11.04.030 Inspections
 11.04.040 Right of entry
 11.04.050 Identification
 11.04.060 Notice and orders
 11.04.070 Coordination of inspections

11.04.010 General. The code official(s) shall enforce the provisions of this code.

11.04.020 Rule-making authority. The code official(s) shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and put into effect by public declaration 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.

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

11.04.040 Right of entry. The code official(s) are 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(s) are authorized to pursue recourse as provided by law.

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

11.04.060 Notices and orders. The Finance Officer and/or City Attorney shall issue all necessary notices or orders to ensure compliance with this code and keep official records of all business and activities of the code officials.

11.04.070 Coordination of inspections. Whenever in the enforcement of this code it shall be the duty of the code official(s) of the City of Madison to coordinate their inspections and orders 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 from any agency observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

CHAPTER 11.05 APPROVAL

11.05.010 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official(s) shall have the authority to Grant modifications for individuals cases, provided the code official(s) shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

CHAPTER 11.06 VIOLATIONS

Sections: 11.06.010 Unlawful acts
 11.06.020 Notice of violation
 11.06.030 Prosecution of violation
 11.06.040 Violation penalties
 11.06.050 Abatement of violation

11.06.010 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of this code.

11.06.020 Notice of violation. The Code Officials shall serve a notice of violation in accordance with chapter 11.08.

11.06.030 Prosecution of violation. If the notice of violation is not complied with, the code official(s) upon the direction of the city council shall institute the appropriate proceeding at law or equity to restrain, correct or abate such violation.

11.06.040 Violation penalties. Any person who shall violate a provision of this code, or fail to comply with any of the requirements shall be guilty of a misdemeanor and shall be subject to a penalty pursuant to the general penalty provision in Section ____ of the Madison Municipal code, which can include a fine of not more than (\$200.00), or by imprisonment not to exceed thirty days, or by both. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

11.06.050 Abatement of violation. The imposition of penalties shall not preclude the official(s) of the City from instituting appropriate action to restrain, correct or abate a violation, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

CHAPTER 11.07 NUISANCES

Sections: 11.07.00 General definition
 11.07.01 Sewerage accumulation/removal private premises
 11.07.02 Offensive matter
 11.07.03 Barbed wire/electrified fences
 11.07.04 Obstructing drain
 11.07.05 Sidewalks and alley kept clean
 11.07.06 No Livestock allowed within public waterways
 11.07.07 No polluting of water

11.07.00 General Definition

The word nuisance is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to exist, which act, omission, condition or thing either:

1. Injures or endangers the comfort, repose, health or safety of others; or

2. Offends decency; or
3. Is offensive to the senses; or
4. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, ighway, sidewalk, stream, ditch or drainage; or
5. In any way renders other persons insecure in life or the use of property; or
6. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

A building or premises within the City of Madison is hereby declared to constitute a public nuisance where there exists any of the following condition or conditions:

1. Buildings which are unsafe, abandoned, boarded up, partially destroyed, dilapidated due to deterioration, fire, wind, or other hazard, or partially constructed and uncompleted to the expiration of building permit.
2. Buildings with excessively deteriorating concrete, siding, masonry, or roofing materials or peeling paint or other conditions that allows the exterior building to deteriorate or become unsightly or permit the effects of weather penetration to encourage decay, dry rot, warping, and/or cracking of the structure.
3. Buildings that are kept in an unsanitary condition that it is a menace to the health of the people residing in the vicinity thereof, or present a more than ordinarily dangerous fire hazard in the vicinity where it is located.
4. Broken windows, doors or attic vents.
5. Overgrown vegetation in excess of **six (6)** inches which is unsightly and/or likely to harbor rats, mice, vermin. All noxious weeds shall be prohibited. Vegetation shall be defined as all grasses, annual plants, other than trees or shrubs, this term shall not include cultivated flowers and gardens.
6. The accumulation of dead animals, animal matter or waste of any kind, dead diseased or decayed trees. Dead animals cannot be left to remain on any public street, alley, public ground or private lot within the city.
7. Trash, garbage or refuse cans, bins, boxes, bags or other such containers permanently stored in front yards visible from public streets or avenues.
8. Lumber, junk, trash, tires, debris or salvage materials, abandoned, discarded or unused furniture, stoves, sinks, toilets, cabinets or other fixtures or equipment which is visible from a public street, avenue, alley or adjoining property. Commercial and Industrial properties may store essential inventory, equipment and supplies outdoors, except that items of property retained for salvage, repair, or reclamation shall be kept from view by utilizing fences or other enclosures.
9. Abandoned, wrecked, dismantled or inoperative trailers, campers, boats and other motor vehicles. **(comment regarding referencing other sections of city code)**

10. Any water or liquid that may become stagnant or allow mosquito larvae to exist. **This does not include identified waterways or bodies of water including but not restricted to: Silver Creek, _____, etc).**
11. Accumulations of combustible refuse matter such as papers, sweepings, rags, grass, tree branches, wood shavings, wood scraps, magazines, cardboard, etc. Properly maintained compost bins for these materials are acceptable.
12. Accumulations of lumber, boxes, barrels, bricks, stones, construction debris or any other similar material unless it is stored elevated not less than four (4) inches above the ground on an open type rack to prevent the harborage of rodents.
13. Abutting sidewalks and alleys must be kept clean and in good repair. **(discussion related to referencing existing ordinance)**
14. Any closely related condition or conditions. **(Discussion referenced deleting this paragraph – or change the language to something that is not so ambiguous)**
15. Parking of motor vehicles in required yard spaces.
16. All unnecessary or unauthorized noises and annoying vibrations, including animal noises. **(discussion suggested possibly listing some sort of decibel levels)**

11.07.01 Sewerage accumulation/removal private premises. No person shall permit any house, barn, cellar, vault, private drain, cesspool, or sewer upon any premises belonging to or occupied by him or her within the city limits to become nauseous, offensive or injurious to public health. The owner or any person occupying or using any private barn or stable where livestock is kept shall thoroughly clean up and remove from the premises where located all manure and refuse from barn, stable, pen, kennel at least once a week. No offensive, harmful, solid matter, liquids or gases may be permitted to escape from any structure.

11.07.02 Offensive matter. It is unlawful for any person within the city limits on the premises owned or occupied by him to permit any unwholesome or offensive substance or offensive or foul odors, stenches otherwise which is considered to be offensive, hurtful or dangerous to the neighborhood.

11.07.03 Barbed wire or electrified fences. No person shall erect or maintain any barbed wire or electrified fence located **on any residentially zoned property** within the city, except for security purposes on commercial or **industrial** property.

11.07.04 Obstructing drain. It shall be unlawful to fill or obstruct or impede the free passage of water therein any ditch, drain or other passage for water in any street, alley, or creek in the city.

11.07.05 Sidewalks and alleys kept clean. It shall be the duty of the owner or occupant of any lot in the city abutting on any alley or sidewalk, to keep such sidewalk and also to keep such alley to the center thereof, free from all filthy, unwholesome

substance or any matter of any sort. (discussion related to referencing existing ordinance)

11.07.06 No livestock allowed within public waterways. It shall be unlawful for any owner to permit any cow, horse, sheep, hog, or other livestock to enter any stream, river or waterway within the City of Madison.

11.07.07 No polluting of water. It shall be unlawful for any person to place any dirt, garbage, manure, or other offensive matter directly into any body or stream of water or upon any property that could flow into or contribute to any body or stream of water within the City of Madison.

CHAPTER 11.08 NOTICES AND ORDERS

Sections: 11.08.010 Notice to owner or to person or persons responsible
 11.08.020 Form
 11.08.030 Method of service
 11.08.040 Penalties
 11.08.050 Transfer of ownership

11.08.010 Notice to owner or to person or persons responsible. Whenever the code official(s) determine that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person(s) responsible as prescribed below.

11.08.020 Form. Such notice shall:

1. Be in writing.
2. Include a legal description of the real estate sufficient for identification as well as the street address.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a statement of response to the finance officer within 10 days of issuance of letter. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this code; and
5. Inform the property owner of the right of appeal.

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

1. Delivered personally; or
2. Sent by certified or first-class mail addressed to the last know address; or

3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by the notice.

11.08.040 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Chapter 11.06.

11.08.045 Weed notices. When notices for violation of any overgrown vegetation, etc. (Section 11.07 item 4) have been sent by certified mail, the owner or persons responsible shall be given 10 days form date of notice to comply or the city will abate and charge the homeowner.

11.08.050 Transfer of ownership. It shall be unlawful for the owner of any structure or premises 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 until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the Grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official(s) and shall furnish to the code official(s) a signed and notarized statement from them fully accepting responsibility without condition for making the correction required by the notice.

CHAPTER 11.09 EMERGENCY MEASURES

Section: 11.09.010 Imminent danger.
 11.09.020 Temporary safeguards
 11.09.030 Closing streets
 11.09.040 Emergency repairs
 11.09.050 Costs of emergency repairs
 11.09.060 Hearing

11.09.010 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fume or noxious vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official(s) is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official(s) 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(s)." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same. The Police Chief or Fire Chief are Granted the authority to abate any imminent danger as they see fit.

11.09.020 Temporary safeguards. Whenever there is imminent danger due to an unsafe condition, the code official(s) shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe

whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official(s) deems necessary to meet such emergency.

11.09.030 Closing streets. When necessary for public safety, the code official(s) shall temporarily close structures, sidewalks, streets, public ways and places adjacent to unsafe structures and prohibit the same from being utilized.

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

11.09.050 Costs of emergency repairs. Cost 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.

11.09.060 Hearing. Any person ordered to take emergency measures shall comply with such order immediately. Any affected person shall thereafter, upon petition directed to the city council, be afforded a hearing as described in this code.

CHAPTER 11.10 MEANS OF APPEAL

Section: 11.10.010 Application for appeal
 11.10.020 Notice of meeting
 11.10.030 Open Hearing
 11.10.040 Council Decision
 11.10.050 Public Nuisance
 11.10.060 Stays of enforcement

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

11.10.020 Notice of meeting. The city council shall consider the appeal at its next regularly scheduled meeting being at least 14 days from the day of filing of the appeal. A notice of the time and place of the hearing shall be sent by certified mail to the applicant at least seven days prior to the meeting.

11.10.030 Open hearing. All appeal hearings under this section shall be open to the public as required by law. The applicant, the applicant's representative, the code official and any person whose interests are affected shall be given the opportunity to be heard.

11.10.040 Council decision. The city council shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of elected members.

11.10.050 Public Nuisance. If the decision of the code official is upheld, the city council shall declare the property to constitute a public nuisance and the council shall direct the code official to institute the appropriate proceedings at law or equity to restrain, correct, or abate the same according to law.

11.10.060 Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and the order until the appeal is heard by the city council.

CHAPTER 11.11 FAILURE TO COMPLY OR APPEAL

11.11.010 Report to city council. If the owner shall fail to comply with the decision or order of the code official and shall also fail to make application for appeal within 20 days after the decision, notice or order was served, the code official shall report the violation and failure to comply to the city council.

11.11.020 Public Nuisance. Upon receipt of a report of non-compliance and failure to appeal, the city council may declare the property to constitute a public nuisance and may direct the code official to institute the appropriate proceedings at law or equity to restrain, correct, or abate the same according to law.

CHAPTER 11.12 ABATEMENT COST RECOVERY

The City shall be entitled to recover the cost of the enforcement of this code or code abatement of any violation of this code. Cost incurred by city crews will be at their hourly rate and standard equipment machine rates per hour. Cost incurred from outside source will be charged from invoice. The cost may be recovered by civil action against the owner of the property and/or the cost may be taxed by special assessment against the property.

CHAPTER 11.13 FIRE LIMITS

1. Sections: 11.13.01 Establishing Fire Limits
- 11.13.02 Combustibles
- 11.13.03 Open Lot Storage
- 11.13.04 Banking Material Prohibited
- 11.13.05 Explosives, Etc.
- 11.13.06 Inflammable Materials
- 11.13.07 Outside Fires Prohibited
- 11.13.08 Firewood Storage

11.13.01 Establishing Fire Limits. A Fire Limit is hereby established in the City of

Madison. The Fire Limit shall embrace the whole of the platted portion of this City.

11.13.02 **Combustibles.** It shall be unlawful for any person to keep anywhere within the platted portions of streets, alleys or public places of the City, any barrels (in excess of 25 gallons) of kerosene, coal oil or gasoline, except in above-ground tanks which meet established United States Environment Protection Agency standard without special permission of the Fire Chief and the Planning and Zoning Board by an ordinance duly enacted; and it shall be unlawful for any person to keep anywhere with the City any dynamite or explosives. Also, smoking is prohibited within a distance of 25 feet of the gas tank of any motor vehicle while being filled with gas anywhere within the corporate limits of the City.

11.13.03 **Open Lot Storage.** It shall be unlawful for any person or persons to store or stack any hay, straw, cornstalks or litter on any open lot, alley or other place, or permit the same to be done within the city limits.

11.13.04 **Banking Materials Prohibited.** It shall be unlawful for any person or persons to bank any house or building situated on any block with hay or straw. Such action is hereby declared a nuisance, and may be abated accordingly.

11.13.05 **Explosives, Etc.** It shall be unlawful for any person, firm or corporation to pile, stack or cause to be piled, stacked, any straw, hay or other inflammable material within the fire limits of the City; or to keep gun powder (in excess of 20 lbs.), dynamite or other high explosives within the City; provided that nothing in this section contained shall prohibit the safe keeping of reasonable supplies of gun powder for sale.

11.13.06 **Inflammable Materials.** It shall be unlawful for any person, firm or corporation to deposit or keep within the fire limits of the City, outside of a proper building or enclosure, any paper, paper boxes or cases, packing cases or other inflammable materials.

11.13.07 **Outside Fires Prohibited.** The Fire Chief or the Chief of Police shall have the power with which to abate such a nuisance as they see fit within the City of Madison. There will be no burning in the City of Madison without the Fire Chief's prior approval.

11.13.08 **Firewood Storage.** Firewood must be stored 4" off the ground and freestanding (approximately 10 feet from any structure).