

CITY OF WINTER HAVEN FACT SHEET
CITY COMMISSION MEETING
August 23, 2010

DATE: August 10, 2010

TO: Honorable Mayor and City Commissioners

VIA: Dale L. Smith, City Manager
Frederick J. Murphy, Jr., City Attorney
David Dickey, Community Development Director

FROM: Tanya Willis, Code Enforcement Supervisor

SUBJECT: Ordinance O-10-15 Revised: Administrative request to amend Chapter 5 and Chapter 12 of the Winter Haven Code of Ordinances by adopting the International Property Maintenance Code and related provisions.

BACKGROUND:

On October 11, 1993, the City adopted the Standard Housing Code (SHC) as promulgated by Southern Building Code Congress International, Inc. (SBCCI) (one of the three historical regional model building code groups in the United States). The SHC sets minimum standards for the interior and exterior maintenance of improved residential properties in the City.

Recognizing the demand for a unified set of standards for the construction and building maintenance industries in the United States and abroad, in 1994 the SBCCI, along with its two sister model building code groups, created a parent organization called the International Code Council (ICC) to develop a nationwide building code standard as well as a nationwide property maintenance standard for all buildings, not just residential sites. The culmination of the ICC's work on property maintenance was the publication of the first International Property Maintenance Code (IPMC) in 1998.

As stated in the IPMC's introduction page, the IPMC is "founded on principles intended to establish provisions consistent with the scope of a property maintenance code that adequately protects public health safety and welfare, provisions that do not unnecessarily increase construction costs, provisions that do not restrict the use of new materials, products or methods of construction, and provisions that do not give preferential treatment to particular types or classes of materials, products or methods of construction."

Shortly after the publication of the first International Property Maintenance Code, SBCCI merged with its parent organization, ICC, and ceased creating and

publishing revisions to the Standard Housing Code. The final revision was published in 1997.

Because the SHC is no longer updated or commented upon by a national-level maintenance code standards review group, staff has requested that the City Commission consider adopting the 2009 version of the IPMC as the minimum property maintenance standards of the City, with local revisions to comply with Florida law and historical City practice. If adopted, the IPMC would for the first time prescribe standards for maintaining commercial structures in the City as well as create new, revised and updated standards for maintaining residential properties.

Notable highlights of the IPMC (with local amendments) include:

- (a) increased enforcement of “living standards” regulations (light, ventilation, living space, heating and sanitation) in housing quarters, improving overall quality of rental units;
- (b) increased focus on the commercial sector, requiring that commercial structures be maintained to minimum standards similar to residential buildings;
- (c) legislative authorization for officers to use any available method of code enforcement to bring an IPMC violation into compliance, including citations, demands for correction/removal, or charge filings before the City’s special magistrate;
- (d) creation of an enhanced ability for City officials to “close” or secure dangerous or abandoned structures (commercial or residential) in an effort to protect the health, safety and welfare of the general public should the situation require; and
- (e) allowance for modification to IPMC requirements as determined by the City’s Development Review Committee, should such modifications be necessary and meet the standard criteria for a variance of land development regulations (essentially, necessity and lack of fault).

In anticipation of transitioning to the IPMC, in 2003, it became a condition of employment for City Code Enforcement Officers to obtain “ICC Property Maintenance and Housing Inspector” certification within three (3) years of being hired or promoted. This certification of training enables Code Enforcement Officers to properly enforce the IPMC, should the City Commission choose to adopt it. Since all incumbent Code Enforcement Officers have obtained certification, implementation of the IPMC will not be delayed due to staff training. However, an effective date of January 1, 2011 is recommended to allow staff time to conduct a public awareness campaign.

Other Florida municipalities that have adopted the IPMC include Auburndale, Haines City, Winter Park, Oviedo, Plant City, Bradenton, and Boca Raton.

On March 8, 2010, the City Commission approved adoption of the IPMC on 1st reading. However, the Commission raised several questions (see attached memo dated March 26, 2010, from Drew Crawford) and directed staff to conduct a public hearing to allow for public input on the proposed code.

To provide for the public input requested by the City Commission, the Planning Commission heard the request at its regular April 6, 2010 meeting. After discussion and public input, the Planning Commission requested that Planning Division staff meet with stakeholders to provide additional comments and input. Staff conducted two stakeholders meetings (May 12 & May 26) and included:

- Polk County Builders Association
- East Polk Association of Realtors
- Interlaken Neighborhood
- Local small business owner
- Main Street Winter Haven
- City of Winter Haven Planning Division staff

Some of the items were addressed by explaining the proposed requirements in more detail, referencing the current Standard Housing Code or Building Code, indicating that other State agencies are responsible for enforcing some provisions, or making changes to the IPMC that reflect enforcement actions or clarifying responsibilities. The attached Winter Haven Minimum Property Maintenance Standards reflect the changes requested from the City Commission, the Planning Commission, the stakeholders group, and City staff.

Some of the specific issues that were raised by the stakeholders group and their resolutions include:

- Hot water in bathrooms – Language was changed in the Minimum Property Standards to deal with only residential properties as commercial properties are regulated through state agencies.
- Right of entry – This section is not new to the Code through the IPMC, but rather is in the Standard Housing Code currently used by Code Officers. Additionally, this provision only applies to rental properties where the tenant requests an inspection, does not apply to homesteaded properties, and is covered by state law dealing with property access, which all Code Enforcement Officers follow.
- Pest control – Discussion on this item referred to a request to have the term pest changed to vermin, but upon fully vetting the issue, it was agreed that pests include insects as well as vermin in order to protect the health, safety, and welfare of the residents.

- Trash receptacles – The wording on this item was changed to remove the owner as the responsible entity in supplying trash receptacles. The responsible party will be tied to the party that pays the water and solid waste bill, which includes the payment for the City’s approved trash receptacle.
- Turning off water and electricity – This new provision was a source of some concern for property owners until the intent of the provision was explained as a life safety issue. Two recent examples of demolitions without adequate power shut-offs highlighted the need for this section.
- Smoke alarm – There were questions relating to whose (owner or tenant) responsibility it is to ensure a working smoke detector. It was agreed that providing the alarm was the owner’s responsibility, but providing batteries is the tenant’s responsibility.
- Testing – The code’s primary “testing” provision was kept in modified form to give Code Enforcement officers the ability, but not the mandate, to require property owners to provide objective proof of code compliance if necessary. Ancillary testing and research provisions were deleted.
- Insect screens – It was determined at the stakeholders meeting that air conditioning is an adequate exception to the insect screening requirements in the Minimum Property Standards and that change was made.
- Special Assessment Liens – All parties are in agreement that this provision needs to be added to the Code of Ordinances. The Planning Commission was particularly concerned with providing Code Enforcement the tools needed to fully implement the intent of the existing Code as well as the proposed IPMC.

In addition to the IMPC changes, upon adoption of Ordinance O-10-15 Revised by the City Commission, nuisance abatement liens would have “special assessment” and “super-lien” status (equivalent to the lien of municipal taxes) to prevent their discharge in a foreclosure action. References to the “Board of Adjustment” in the Chapter 12 abatement order process would be properly changed to “Code Enforcement Special Master” upon passage, harmonizing the provisions with §§2-61, *et seq.* of the Code of Ordinances. Finally, new Section 12-11 of the Code of Ordinances would allow the City Manager discretion to prepare a non-ad valorem property tax assessment collection resolution for consideration by the City Commission for unpaid abatement and correction liens, should such measures be deemed necessary.

NOTIFICATION:

All public notice requirements for this request have been met. To encourage public participation, a notice for the Planning Commission and August 23, 2010 City Commission meetings were forwarded to a number of entities potentially affected by this code, to include:

- The Polk County Builders Association
- East Polk Association of Realtors
- Winter Haven Main Street
- Winter Haven Chamber of Commerce
- Neighborhood groups

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission, at its June 8, 2010 regular meeting, unanimously voted to approve the request to forward Ordinance O-10-15 to the City Commission for approval. There were no public comments related to this request. The Planning Commission requested that an emphasis be placed on the support for staff to implement the provisions of the ordinance.

PROCEDURAL ISSUES:

Ordinance O-10-15 Revised contains a staff-added change to §12-1 of the City's Code of Ordinances to match suggested nuisance abatement language proposed in §302.4 of the IPMC as amended. The added language defines the term "weeds" for yard nuisance purposes as "all grasses, annual plants and vegetation, other than trees or shrubs" excluding "cultivated flowers, cultivated gardens and Central region plants" listed on the current edition of the University of Florida's Florida-Friendly Plant List. This change insulates property owners who maintain "Florida Friendly Landscapes" from code enforcement issues related to plant height so long as the yard is kept in an aesthetically pleasing manner.

Florida law allows cities to revise proposed ordinances between readings. Notably though, Florida law requires a proposed ordinance's "title" to remain the "same" between readings if the enacting city's practice is to introduce legislation by title only. The purpose for this rule is to ensure that citizens and groups are able to follow local legislation of interest.

Because Ordinance O-10-15 Revised intends to amend §12-1 of the City's Code, the title of the Ordinance needs to be changed, but only after O-10-15 is properly "introduced" on Second Reading. Procedurally, amendment of the title may be combined with a motion for approval.

RECOMMENDATION:

Staff recommends that the City Commission approve Ordinance O-10-15 Revised, with title amendment to add a reference to §12-1 of the City's Code of Ordinances.

ATTACHMENTS:

March 26, 2010 memo from Drew Crawford, Asst. City Attorney
Ordinance O-10-15 Revised
City of Winter Haven Minimum Property Maintenance Standards (with local
amendments and revisions)

MEMORANDUM

TO: Dale L. Smith, City Manager
David Dickey, Community Development Director
Tanya Willis, Code Enforcement Supervisor
Frederick J. Murphy, Jr, City Attorney

FROM: W.A. "Drew" Crawford, Assistant City Attorney

DATE: March 26, 2010

IN RE: Ordinance O-10-15 (IPMC Adoption); Questions and Comments from City Commissioners

At the City Commission's March 8, 2010 meeting, several comments and questions were raised regarding language found in §§4 and 5 of proposed Ordinance O-10-15 (the International Property Maintenance Code ("IPMC") adoption Ordinance). Most Commissioner comments centered on "conflict resolution" provisions -- standard clauses often included in complex legislation clarifying the intent of the enacting body and prescribing a method for resolving unintended or unforeseen conflicts between existing municipal laws and new enactments. Other comments were substantive questions directed at individual policies contained within the Revised IPMC's text.

This memorandum aims to answer Commissioner questions on conflict resolution as well as introduce new draft language to the proposed Ordinance in preparation for a public hearing scheduled before the City's Planning Commission April 6.

Executive Summary

Conflict resolution language is not new to the law. When enacting "form" documents into law, such as the text of the IPMC (a document prepared by third party International Code Council, Inc.), conflict resolution language is necessary in order to establish the hierarchy of supremacy; without it, interpreting authorities would look to the most recent statement of law, which may or may not express the true intent of the legislative body.

Regarding substantive questions:

Commission Notification: Language has been added to the proposed Ordinance instructing the City Manager to notify individual members of the City Commission, if and when emergency closure power is exercised as provided in §5 of Ordinance O-10-15. See Prospective §5-73(bb), Code of Ordinances of the City of Winter Haven; Prospective §109.4, IPMC, as amended.

Florida Friendly Landscaping: Florida Friendly Landscapes maintained in an aesthetically appealing manner that do not constitute a dangerous condition are exempted from the 12" weeds and overgrowth height limit. See Prospective §5-73(hh), Code of Ordinances of the City of Winter Haven (Prospective §302.4, IPMC, as amended); Prospective §12-1 of the Code of Ordinances of the City of Winter Haven. **Please note that the addition of this language to Ordinance O-10-15 requires a title amendment to be voted on at Second Reading.**

Elevated Buildings: Prospective §5-71(ll) of the Code of Ordinances of the City of Winter Haven (Prospective §304.19, IPMC, as amended) requires that all buildings with floors elevated above ground to install latticework or other similar approved material along the outside perimeter of the structure. This would impact buildings on stilts within in the City's municipal limits.

Courtesy Notice: Language has been added to Ordinance O-10-15 confirming the ability of Code Enforcement Officers to issue courtesy notifications, such as letters or door hangers, to apprise persons of alleged violations of both the IPMC, as amended, and the Code of Ordinances of the City of Winter Haven.

Transition Date: City Staff has proposed an effective transition date of June 1, 2010. As this is a matter of policy, a different effective date may be suggested by the City Commission and the Planning Commission after each body's respective public hearing on the proposed Ordinance.

Conflict Resolution

Fluid legal documents, such as the Florida Statutes, or a Florida city's official Code of Ordinances, often contain unintentional conflicting statements of primary law. Since 1916, Florida Courts have followed a rule of decision in solving statutory conflicts, if they occur, in the absence of any conflict resolution language:

" . . . Where there is material repugnance in statutory regulations, or where there is anything from which an intent that a later act shall supersede a prior act may be fairly inferred, it will be given that effect, particularly when the later act covers a broader general subject and contains a portion of the particular provisions of the former act, and adds to some portions and omits other portions of such particular provisions so as to make such particular regulations contained in the prior act conform to the purpose and policy of the later act, covering a broader subject, including the lesser."

Sparkman v. State, 71 Fla. 210, 71 So. 34, 39 (Fla. 1916) (emphasis added); Berkeley v. State, Dep't of Env. Reg., 358 So. 2d 552, 553 (Fla. 1st DCA 1978). This rule of decision essentially means that **later** acts of government will be given primary effect by Florida courts, especially if they cover the same subject matter and state a new standard.

This rule of decision becomes a particular problem in **periodically updated** documents incorporated into law, such as the former Standard Housing Code, the Florida Building Code and the International Property Maintenance Code. Without taking due legislative care in deciding how conflicting provisions of law should be handled, unintended consequences can arise that can have disastrous effects on prosecutions.

The way for legislative bodies to *ensure* a particular rule of decision in the event a statutory conflict occurs is to provide for resolution of conflicts in the substantive law. Proposed Ordinance O-10-15 contains three resolution statements, each of which is intended by the Ordinance's drafters to cover a different situation:

- (a) §4 (Proposed §5-72, Code of Ordinances of the City of Winter Haven):

In the event of a conflict between the provisions of the International Property Maintenance Code, adopted by the provisions of this article, and the provisions of the Code of Ordinances, the Code of Ordinances shall prevail.

- (b) §5 (Proposed §5-73(b), Code of Ordinances of the City of Winter Haven; Proposed §102.1, IPMC, as amended):

... Where, in a specific case, different sections of this code specify different requirements, the most restrictive will govern.

- (c) §5 (Proposed §5-73(e), Code of Ordinances of the City of Winter Haven; Proposed §102.7, IPMC, as amended):

... Where differences occur between provisions of this code and the referenced standards, the more stringent standard shall apply.

Item (a), proposed §5-72 of the Code, is designed to legislatively ensure that the Code of Ordinances of the City shall always prevail over the incorporated form documents. Primarily, this provision was added to the draft Ordinance to ensure proposed §5-73's local modifications to the IPMC were given full force and effect; notably however, the added side effect of proposed §5-72 is to *validate* existing and future acts of the Winter Haven City Commission that may be construed as conflicting with the IPMC, under certain circumstances. For example,

§302.8 of the IPMC prohibits *inter alia* “[p]ainting of vehicles ... unless conducted inside an approved spray booth.” §21-31 of the Code of Ordinances limits automotive paint shops to the C4, I1 and I2 zoning districts of the City. Given that §302.8 of the IPMC is, for argument purposes, the *later* enacted law, proposed §5-72 of the Code of Ordinances ensures that painting of vehicles will not take place in zoning districts other than C4, I1 and I2, regardless of whether any given accessory structure could be argued to be an “approved” spray booth. (Essentially, proposed §5-72 forecloses a creative Sparkman argument that paint booths are authorized commercial uses under the IPMC in a used vehicle sales facility located on a C3 zoned parcel.)

Item (b), proposed §5-73(b), Code of Ordinances of the City of Winter Haven (proposed §102.1, IPMC, as amended) is focused on ensuring stringency of the IPMC, as applied under the circumstances. For example,

§§309.4 and 309.5 of the IPMC deal with pest elimination. §309.5 requires “[t]he occupant of any structure” to be “responsible for the continued rodent and pest-free condition of the structure” whereas §309.4 of the IPMC requires “[t]he owner of a structure containing two or more dwelling units” to be “responsible for extermination in the public or shared areas of the structure”. Since §309.4 is *more restrictive* by requiring a non-occupant to have responsibility for pest extermination, proposed §5-73(b) of the Code of Ordinances ensures that, in multi-dwelling buildings, the owner takes care of pest extermination in public areas.

Item (c), proposed §5-73(e), Code of Ordinances of the City of Winter Haven (proposed §102.7, IPMC, as amended) is also focused on ensuring stringency. The IPMC references numerous standards, all of which are identified in the Chapter 8 index. Notably, proposed §102.7 of the IPMC, as amended, allows agencies charged with publishing referenced standards to prescribe new stringency levels to ensure proper functioning and compliance as maintenance methods and materials change over time, with changes made to referenced documents being automatically incorporated into the City of Winter Haven’s minimum property maintenance standards. This prevents the City from having to revisit the IPMC’s effectiveness each time a standards agency decides to publish a new edition of industry practices; if the industry practice is more stringent than that currently prescribed in the IPMC, as amended, the more stringent practice controls.

Conclusion

Ordinance O-10-15’s conflict resolution procedures have been narrowly tailored to achieve desired effects while minimizing the amount of “legislative maintenance” required to keep the proposed law applicable to modern structures and modern practices. Other substantive law questions have either been addressed or highlighted in the proposed text for further discussion at the staff level.

ORDINANCE NO. O-10-15 (REVISED)

AN ORDINANCE RELATING TO PROPERTY STANDARDS AND ENFORCEMENT; REVISING SECTIONS 5-71, 5-72, 5-73, 12-1, 12-7, 12-8 AND 12-9 AND CREATING SECTION 12-11 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER HAVEN; ESTABLISHING THE MINIMUM REGULATIONS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES IN THE CITY; PROVIDING THE STANDARDS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; PROVIDING FOR THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY; AUTHORIZING THE CITY'S CODE ENFORCEMENT SPECIAL MASTER TO HEAR APPEALS OF CHAPTER 12 ADMINISTRATIVE ABATEMENT ORDERS; GIVING CHAPTER 12 ABATEMENT LIENS SPECIAL ASSESSMENT STATUS AND SUPER-PRIORITY; AUTHORIZING THE CITY COMMISSION TO COLLECT CODE ENFORCEMENT SPECIAL ASSESSMENT LIENS ON PROPERTY TAX BILLS; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, CONTINUANCE OF LEGAL ACTIONS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, pursuant to §5-71 of the Code of Ordinances of the City of Winter Haven, the minimum housing standards of the city are articulated by the 1994 "Standard Housing Code" (as amended), published by "Southern Building Code Congress International" ("SBCCI"); and

WHEREAS, §§5-71 through 5-73 of the Code of Ordinances of the City of Winter Haven currently only prescribe minimum maintenance standards for residential structures and buildings; and

WHEREAS, in 1998, SBCCI, a statutory member of the "International Code Council" ("ICC"), participated in the development of the first edition of the "International Property Maintenance Code" ("IPMC"); and

WHEREAS, the IPMC prescribes minimum maintenance standards for both

residential and commercial structures and buildings; and

WHEREAS, the most current edition of the IPMC was released by the ICC in 2009; and

WHEREAS, it is desirable and beneficial to the citizens and residents of Winter Haven, Florida for the City Commission to adopt the IPMC, with certain local amendments, in order to properly secure the health safety and welfare of the public by prescribing minimum property maintenance standards for all buildings and structures within the City's municipal limits; and

WHEREAS, municipal abatement of nuisances and municipal correction of code enforcement violations provide a special and unique and benefit accruing to particular property in the City where such activities take place; and

WHEREAS, the City's current abatement lien scheme should be expanded to allow the City to use the special assessment process, including, at the option of the City Commission, the collection of assessments via property tax bills, so that the general public is remunerated for providing a special and unique benefit to particular properties in the City where municipal abatement or municipal correction of code enforcement violations occur; **NOW, THEREFORE**,

BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN:

SECTION 1. Chapter 5, Article VI of the Code of Ordinances of the City of Winter Haven is renamed to read:

ARTICLE VI. MINIMUM PROPERTY MAINTENANCE STANDARDS

SECTION 2. Sections 5-71, 5-72 and 5-73 of the Code of Ordinances of the City of Winter Haven existing as of the day before Second Reading of this Ordinance are

hereby repealed in their entirety.

SECTION 3. Section 5-71, Code of Ordinances of the City of Winter Haven is enacted to read:

Sec. 5-71. International Property Maintenance Code adopted.

The International Property Maintenance Code, 2009 Edition, as published by the International Code Council, Inc. is hereby adopted and incorporated by reference as the Minimum Property Maintenance Standards of the City subject to and including by reference such additions and amendments that may be adopted by the City by Ordinance.

SECTION 4. Section 5-72 of the Code of Ordinances of the City of Winter Haven is enacted to read:

Sec. 5-72. Conflicts.

In the event of a conflict between the provisions of the International Property Maintenance Code, adopted by the provisions of this article, and the provisions of the Code of Ordinances, the Code of Ordinances shall prevail.

SECTION 5. Section 5-73 of the Code of Ordinances of the City of Winter Haven is enacted to read:

Sec. 5-73. Modifications, amendments, deletions.

The International Property Maintenance Code, 2009 edition, incorporated by reference in Section 5-71 is modified as specified hereunder:

(a) Section 101.1 is amended to read:

101.1 Title.

These regulations shall be known as the Minimum Property Maintenance

Standards of the City of Winter Haven, hereinafter referred to as “this code”

(b) Section 102.1 is amended to read:

102.1 General.

Where there is a specific conflict between a general requirement of this code and a specific requirement of this code, the specific requirement shall govern. Where differences occur between provisions of this code, and any referenced standard in this code, this code shall generally govern, except that Chapter 553, Florida Statutes, the Florida Building Code and all referenced standards in the Florida Building Code shall control all matters relating to building construction, repair and remodeling and the Florida Fire Prevention Code / Florida Life Safety Code shall control all matters relating to fire safety. Where, in a specific case, different sections of this code specify different requirements, the most restrictive will govern.

(c) Section 102.3 is amended to read:

102.3 Application of other codes.

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of Chapter 553, Florida Statutes and any applicable building codes, including, but not limited to, the Florida Building Code. Nothing in this code shall be construed to cancel, modify or set aside any of the provisions of Chapter 553, Florida Statutes or any applicable building codes to a particular project, including, but not limited to, the Florida Building Code or any referenced standard therein.

(d) Section 102.6 is amended to read:

102.6 Historic Buildings.

The provisions of this code shall not be mandatory for existing buildings or structures that are designated as historic by the National Park Service and listed on the National Register of Historic Places when such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety, and welfare.

(e) Section 102.7 is amended to read:

102.7 Referenced codes and standards.

The codes and standards referenced throughout this code shall be considered part of this code and are accordingly adopted and incorporated herein by reference to the prescribed extent of such reference. Where differences occur between provisions of this code and the referenced standards, the more stringent standard shall apply.

(f) Section 102.8 is amended to read:

102.8 Requirements not covered by code.

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health, and general welfare, not specifically covered by this code shall be determined by the Code Official using the following:

(1) Reference to the manufacturer's suggested guidelines or instructions for installation and use;

(2) Reference to the Florida Building Code or any other applicable building code;

(3) Reference to primary law (including federal, state, and local sources);

(4) Reference to any generally accepted practice in the industry, occupation, or general use for which the existing fixture, structure or equipment is primarily

designated for, or for which the public health, safety, and welfare requires; or

(5) Reference to any other suitably acceptable source of custom or practice reasonably accepted by society and sufficiently reliable in nature such that the requirement would be generally known and accepted in the community.

The Code Official, upon observing a deficiency in a requirement necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health, and general welfare, shall, in addition to regular enforcement protocol, issue along with the first notice a written determination including the basis for requirement and the necessary steps to correct the deficiency observed to meet the requirement.

(g) Section 103 is renamed “Code Enforcement Unit”

(h) Section 103.1 is amended to read:

103.1 Code officials.

Each Code Enforcement Officer of the City is deemed a “Code Official” for purposes of this code. Any notices required to be delivered to the code official under this code shall be delivered to the responsible Code Official for the case.

(i) Sections 103.2 and 103.3 are deleted.

(j) Section 103.4 is amended to read:

103.4 Liability.

In accordance with §768.28(9)(a), Florida Statutes, a City official or employee charged with the enforcement of this code shall not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or

function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(k) Section 103.5 is deleted.

(l) Section 104.1 is amended to read:

104.1 General.

The code official shall enforce the provisions of this code.

(m) Section 105.1 is amended to read:

105.1 Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this code, the Development Review Committee shall have the authority to grant modifications to structures for individual cases as may be deemed necessary in its discretion. No modification from the terms of this code shall be issued unless the Development Review Committee finds, based on competent substantial written evidence submitted to the Community Development Department at least seven (7) business days before the day of the scheduled Committee meeting, that all of the following conditions are met:

(1) The requested modification is in compliance with the intent and purpose of this code;

(2) The requested modification does not lessen health, life, safety and fire requirements;

(3) The circumstances giving rise to the requested modification are peculiar to the structure and do not arise from the actions of a structure owner or occupant;

(4) The requested modification, if approved, will not confer any special privilege that is denied by the provisions of this code to other similarly situated structures;

(5) Literal interpretation of the provisions of this code would deprive the structure owner or occupant of rights commonly enjoyed by other similarly situated structures; and

(6) The requested modification, if approved, is the minimum modification that will allow reasonable use of the structure.

All requests for modifications must be submitted to the City in writing. It is the requester's responsibility to include a proper mailing address with the written request for modification.

While it is preferred that the requester provide evidence supporting the modification to the Development Review Committee at the time of making the written request, to ensure that the requester is given adequate opportunity to provide the Development Review Committee with all relevant evidence, the Planning and Community Development Director shall, upon receipt of a request for modification, forward a notice, along with a copy of this Section, to the address supplied by the requester that identifies the Committee meeting date and the deadline for document submittal.

Should a modification to this code be approved, the Development Review Committee shall draft a modification order and shall forward a copy of the modification order to the Code Official for placement in the Code Official's files and a copy of the modification order to the Building Official for placement in the Building Official's files.

Modifications to this code granted by the Development Review Committee are not variances and do not run with the land, and upon the application for a building permit from the City for the subject building, structure or premises by the owner or occupant thereof, such modifications shall cease to be in existence and the subject building, structure or premises must be brought into compliance with this code as a condition of issuance of the permit.

Any aggrieved person adversely affected by a decision of the Development Review Committee made pursuant to this Section shall, within thirty (30) days of rendition of the decision, make appeal to an applicable Court of law in accordance with the Florida Rules of Appellate Procedure by filing with such Court a petition for writ of certiorari. Such an appeal shall be in the nature of that from a final administrative decision.

(n) Section 105.3 is amended to read:

105.3 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 code official shall have the authority, but not the obligation, to require tests to be made as evidence of compliance at the property owner's expense.

(o) Sections 105.3.1, 105.3.2 and 105.6 are deleted.

(p) Section 106.2 is amended to read:

106.2 Enforcement Protocol.

The Code Official shall enforce the provisions of this Code in any manner or

protocol available including, but not limited to, issuance of a citation pursuant to §162.21, Florida Statutes and §2-201, et seq., Code of Ordinances of the City of Winter Haven, a “Notice of Hearing” pursuant to §162.12, Florida Statutes and §2-61, et seq., Code of Ordinances of the City of Winter Haven, a “Notice to Appear” pursuant to §162.23, Florida Statutes, a “Demand for Removal” pursuant to §12-1, et. seq., Code of Ordinances of the City of Winter Haven, a “Demand for Correction” pursuant to §106.3 of this code, or referral to the City Attorney for filing a civil enforcement action. The enumeration of remedies and protocols herein does not constrain the Code Official who, as an officer of a Florida municipality endowed with home rule authority, may use any lawful means necessary to bring a code violation into compliance, to restrain, correct, or to prevent illegal occupancy of any building, structure or premises, or to stop an illegal act, conduct, business or utilization of any building, structure or premises.

(q) Section 106.3 is amended to read:

106.3 Declaration of nuisance; demand for correction.

A violation of any provision of this code is deemed to be a nuisance affecting the public health, safety and welfare, and accordingly, the Code Official is hereby authorized and empowered to notify, in writing, the owner or agent of such owner, of any building, structure or premises within the City, to make such repairs as may be required to abate the nuisance condition and bring such building, structure or premises into compliance. Notice shall be provided to the owner or agent of such owner either (a) in the manner described in §162.12, Florida Statutes, or (b) in the manner described in §12-4, Code of Ordinances of the City of Winter Haven.

The notice required to be given herein shall set forth the legal description of the

property underlying the building, structure or premises as is set forth in the latest tax roll prepared by the county, and shall specify a reasonable time in which the owner or agent of the owner shall abate the condition and bring such building, structure or premises into compliance. Such notice shall have attached thereto a true copy of this section. Included in the notice shall be a statement informing the owner that all costs incurred by the City in abating the nuisance condition and repairing the condition and bring such building, structure or premises into compliance shall be billed to the property owner.

Upon the failure, neglect or refusal of any owner or the agent of such owner so notified to abate the nuisance condition and make repairs within the reasonable time specified after posting the building, structure or premises, the Code Official is hereby authorized to order the repair of the building, structure or premises and bill the owner for the work.

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which such owner was given to abate the nuisance. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 451 3rd Street, N.W., Winter Haven, Florida. In the event the time for owner to abate the nuisance expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Special Master Hearing or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. At such hearing, the rules of the

Special Master concerning appeals shall be followed. It shall be the responsibility of the owner of the property in question to show that the City's actions are without reason. The Special Master shall determine whether the appeal is justified. If not, the City shall proceed with the abatement.

After abatement and billing by the City, where the full amount due the City is not paid by the owner of the building, structure or premises within thirty (30) days after the billing date, the Code Official shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which such work was done, and the recordation of such sworn statement shall constitute a special assessment lien on the property equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such special assessment lien may be foreclosed in the manner provided for by general law.

This provision is supplemental in nature and is not intended to be the exclusive remedy by which this code may be enforced.

(r) Section 106.4 is amended to read:

106.4 Violation penalties; remedies additional and supplemental.

Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, may be prosecuted within the limits provided by general or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Each remedy provided for in this code is an additional and supplemental means of enforcing city codes and ordinances and may

be used for the enforcement of this code singularly or in tandem. Nothing contained herein shall prohibit the city from enforcing its codes and ordinances by any other means.

(s) Section 106.5 is amended to read:

106.5 Abatement of violation.

The imposition of the penalties herein shall not preclude the Code Official from referring a particular case to the City Attorney to institute an appropriate action to restrain, correct, 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.

(t) Section 107.1 is amended to read:

107.1 Notices.

Notice of a violation of this code shall be delivered in accordance with the substantive law governing the Code Official's chosen enforcement protocol or protocols.

(u) Sections 107.2, 107.3 and 107.5 are deleted.

(v) Section 107.6 is amended to read:

107.6 Transfer of ownership.

It shall be unlawful for the owner of any building, structure or premises who has received a citation, a notice of violation, a demand for removal or a demand for correction to sell, transfer, mortgage, lease, or otherwise dispose of such building, structure, or premises until the provisions of the citation, notice of violation, demand for removal or demand for correction have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of the citation,

notice of violation, demand for removal or demand for correction and then provide to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such citation, notice of violation, demand for removal or demand for correction and fully accepting the responsibility without condition for making the corrections or repairs required thereby.

A true and correct copy of this section shall be attached to all citations, notices of violation, demands for removal and demands for correction issued pursuant to this code, although the failure to attach a copy thereto will not affect the validity of the instrument, nor shall it affect the validity of this section.

Any person violating this section shall be subject to the penalty found in §1-13, Code of Ordinances of the City of Winter Haven.

(w) Section 108.1.5 is amended to read:

108.1.5 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.

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the requirements for existing buildings identified in Chapter 553, Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code or the Florida Life Safety Code.

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

3. Any portion of a building, structure or appurtenance that has been

damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

4. 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 or artificial loads of one and one-half the original designed value.

5. 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.

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

7. 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, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. 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 of 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.

9. 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 light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of lack of sufficient or proper fire-resistance-related construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

11. 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 building or portion thereof as an attractive nuisance or hazard to the public.

(x) Section 108.2 is amended to read:

108.2 Closing of vacant structures.

If a structure is vacant and unfit for human habitation and occupancy, and is not in danger for structural collapse, but is open such that the interior of the structure is easily accessible through open or broken windows, open or broken doors, or missing structural elements, the Code Official is authorized to issue a demand for correction in accordance with §106.3 of this code.

Alternatively, should the vacant structure

(1) pose an imminent danger to the health, safety, and welfare of the general

public;

(2) be occupied periodically by transients or itinerants; or

(3) be utilized for illegal conduct in violation of any federal, state or local law,

the Code Official is authorized to have the structure immediately closed up so as not to be an attractive nuisance by posting a notice at each entrance to the building entitled “Notice of Section 108.2 Closing” and by sealing each accessible entrance. A “Notice of Section 108.2 Closing” shall be in substantially the following form:

“NOTICE OF SECTION 108.2 CLOSING

This vacant structure is uninhabitable and has been closed by Order of the City of Winter Haven Code Enforcement Unit pursuant to Section 108.2(1), (2), and/or (3) of the Minimum Property Maintenance Standards of the City.

For information, please call (863) 291-5697”.

When the Code Official elects to post a “notice of closing” on a vacant structure at each accessible entrance, in accordance with subsection (1), (2) or (3) above, the Code Official shall send a bill for the City’s expense in closing the structure to the owner of the property underlying the structure or the agent of such owner of the property underlying the structure by United States certified mail, return receipt requested. Should the City’s bill be returned unclaimed, the City may then post the bill on the closed structure and at a conspicuous location at City Hall for ten (10) days, which, on the tenth day after posting, shall constitute the equivalent of delivery. After billing by the City, if the full amount due the City is not paid by the owner of the structure or the agent of the owner of the structure within thirty (30) days after receipt of the bill or after the expiration of ten (10) days after posting the bill, the Code Official shall cause to be

recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which such work was done, and an affidavit of constructive service by posting, if any, and the recordation of such sworn statement shall constitute a special assessment lien on the property equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such special assessment lien may be foreclosed in the manner provided for by general law.

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which to pay the bill for closing the structure due the City. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 451 3rd Street, N.W., Winter Haven, Florida. In the event the time for owner to pay expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Special Master Hearing or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. At such hearing, the rules of the Special Master concerning appeals shall be followed. It shall be the responsibility of the owner of the property in question to show that the City's actions are without reason. The Special Master shall determine whether the appeal is justified. If it is determined by the

Special Master, based on competent substantial evidence in the record, that the City's actions are without reason, the cost for closing the structure shall be borne by the City.

No structure closed by the City pursuant to this section may be reopened unless said structure is wholly compliant with this code or unless it is shown during a timely appeal after hearing that the City's actions in closing the structure were without reason.

(y) Section 108.3 is amended to read:

108.3 Notice.

Whenever the Building Official has reason to condemn a structure or equipment under the provisions of this section, a notice of violation shall be posted in a conspicuous place on or about the structure affected by such notice and served on the owners of land, the agent of such owners, or the person or persons responsible for the structure or equipment by United States certified mail, return receipt requested. If the notice pertains to equipment, it shall also be placed on the equipment in violation. The notice shall specify a reasonable time in which the structure or equipment owner or the person or persons responsible for the structure or equipment shall abate the condition and bring such structure or equipment into compliance.

(z) Section 108.5 is amended to read:

108.5 Prohibited occupancy.

Any occupied structure condemned by the Building Official and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, agent of such owner, or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be subject to the

penalty in §1-13, Code of Ordinances of the City of Winter Haven.

(aa) Section 108.6 is added to read as follows:

108.8 Boarded up structures.

No vacant structure may be boarded up by its owner for a period of time exceeding one hundred twenty (120) days unless

(1) the owner is granted a written waiver signed by the Building Official and the Code Official; or

(2) the structure has been closed in accordance with §108.2 of this code.

All vacant structures shall be maintained in accordance with §304.6 of this code (“Exterior walls”), and all materials used to enclose the building must be neatly fitted within window and door openings and must be painted to blend in with the rest of the building. Closing a structure in accordance with §108.2 of this code does not relieve the owner from complying with this provision.

(bb) Section 109.1 is amended to read:

109.1 Emergency closing.

When,

(1) in the opinion of the Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or

(2) any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or

(3) in the opinion of either the Code Official or Building Official, there is actual or potential danger to the building occupants or those in 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;

both the Code Official and the Building Official are authorized and empowered to order and require the occupants to vacate the premises forthwith. The official ordering the vacation of the premises shall immediately thereafter post, at each entrance to the structure, a notice in substantially the following form:

“DANGER! THIS STRUCTURE IS CLOSED TO THE PUBLIC! DANGER!

NOTICE OF EMERGENCY CLOSING

IMMEDIATE ORDER OF CLOSURE

This structure is unsafe and has been closed by Order of the City of Winter Haven pursuant to Section 109.1 of the Minimum Property Maintenance Standards of the City.

For information, please call the Code Enforcement Unit at (863) 291-5697 or the Building Division at (863) 291-5695”.

Any person ordered to take emergency measures shall comply with such order forthwith. It shall be unlawful for a person to enter a posted structure except for the purpose of securing the structure, making the required inspections and repairs, removing the hazardous condition, or to demolish the structure. Any such person in violation of this provision is subject to the penalty found in §1-13, Code of Ordinances of the City of Winter Haven and may be immediately removed from the structure by City personnel.

(cc) Section 109.2 is amended to read:

109.2 Safeguards.

Whenever, in the opinion of the Code Official or Building Official as the situation may require, there is an emergency situation warranting an emergency closing of a

structure pursuant to §109.1(1), (2), or (3) of this code, the City and the official ordering the closing of the structure is authorized to order that work be done in an attempt to secure the structure such that it may be rendered temporarily safe. Neither the City nor the official ordering the closing of the structure however is under any obligation under this Section to perform any work to ensure that the structure is rendered safe. Further, should the City or the official ordering the closing of the structure choose to order that work be done in an attempt to secure the structure, neither the City nor the official ordering the closing of the structure shall be liable for any damage done to the structure during the performance of such safeguard work.

(dd) Section 109.4 is amended to read:

109.4 Notification of Emergency Closing to City Commission.

The City Manager shall provide the City Commission notice of any emergency closing actions taken by the City pursuant to this Code. The failure to provide such notice shall have no effect on the validity of enforcement actions taken hereunder.

(ee) Section 109.5 is amended to read:

109.5 Costs of safeguard work.

Costs incurred in the performance of safeguard work shall be paid by the City of Winter Haven, but shall be assessed against the owner of the structure, as a special assessment on the real property underlying the structure, upon a showing at the mandatory hearing described in §109.6 of this code, by competent substantial evidence, that the safeguard work was required by exigencies of the situation, given the totality of the circumstances.

(ff) Section 109.6 is amended to read:

109.6 Mandatory Hearing; appeal.

Immediately after closing a structure pursuant to Section 109.1 of this code, the official closing the structure shall request a hearing as soon as possible before the Code Enforcement Special Master for the purpose of reviewing the decision of the official to determine whether it was reasonable under the totality of the circumstances. Such hearing shall be conducted in accordance with the rules for the Special Master and any decision rendered by the Special Master as to the propriety of the closure must be based on competent substantial evidence. Any appeal from the decision of the Special Master under this provision shall be taken by filing a petition for certiorari with the appropriate court under the Florida Rules of Appellate Procedure. The nature of such an appeal shall be from a final administrative order of the City.

(gg) Sections 110, 111 and 112 are deleted in their entirety.

(hh) Section 201.3 is deleted.

(ii) Term Definitions.

Certain term definitions in Section 202 are revised to read as follows:

(1) Easement. Deleted.

(2) Equipment Support. Deleted.

(3) Strict Liability Offense. Deleted.

(4) Ultimate Deformation. Deleted.

All term definitions in Section 202 not modified by this subsection shall remain as published in the International Property Maintenance Code, 2009 edition. Terms not defined in Section 202 shall, for purposes of this code, have the corresponding meanings assigned to them by §21-531 of the City's Code of Ordinances.

(jj) Section 302.1 is amended to read:

302.1 Sanitation and storage of materials.

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.

No owner or occupant shall permit old or broken lumber, rusted or unused equipment, discarded refrigerators, discarded stoves, old pipe or other used, discarded and worn, unsightly articles or materials to remain in any yard or open area owned, occupied or in the possession of such person for a period of more than five (5) days.

Further, unless authorized by the zoning category of the property, no owner or occupant of a building, structure or premises may utilize such property for the open storage of abandoned, untagged, or inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material rubbish or similar items.

(kk) Section 302.4 is amended to read:

302.4 Weeds and overgrowth.

All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided that the term weeds shall not include cultivated flowers, cultivated gardens and Central region plants listed on the most current edition of the Florida-Friendly Plant List issued by the University of Florida Institute of Food and Agricultural Sciences, so long as such flowers, gardens and plants are maintained in an aesthetically pleasing manner and do not constitute a dangerous or nuisance condition as determined in the sole discretion of the Code

Official; provided further however that all noxious weeds shall be prohibited.

(ll) Section 304.1.1 is deleted.

(mm) Section 304.3 is amended to read:

304.3 Premises Identification.

Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabetic letters. Numbers shall be a minimum of three (3) inches (76.2 mm) high with a minimum one-half (.5) inch (12.7 mm) stroke width.

(nn) Section 304.14 is amended to read as follows:

304.14 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 sixteen (16) mesh per one (1) inch (25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. All screens shall be maintained free from open rips, tears, or other defects.

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

(oo) Section 304.15 is amended to read:

304.15 Doors.

All Exterior doors, door assemblies and hardware shall be maintained in good

condition. Locks at all entrances to dwelling units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

(pp) Section 304.19 is created to read:

304.19 Skirting around foundations.

Latticework or similar approved material must be installed along continuous openings on the outside perimeter of buildings with floors elevated above the ground and where more than twelve (12) inches of vertical opening area exists from the ground to the building wall. The installation must be performed in an approved aesthetic manner in accordance with typical construction methods in practice. Existing skirting shall be maintained in good repair and free from broken or missing sections, pieces or cross members.

(qq) Section 305.1 is amended to read:

305.1 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 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.

(rr) Section 305.1.1 is deleted.

(ss) Section 306 is deleted in its entirety.

(tt) Section 307.1 is amended to read as follows:

307.1 General

Every exterior and interior flight of stairs shall have handrails and guardrails installed in accordance with Chapter 553, Florida Statutes and applicable portions of the Florida Building Code.

(uu) Sections 308.2.1 and 308.3.1 are deleted.

(vv) Section 401.3 is amended to read:

401.3 Alternative devices.

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

(ww) Section 404.1 is amended to read:

404.1 Privacy.

Dwelling units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(xx) Section 502.3 is deleted

(yy) Section 502.5 is amended to read:

502.5 Public toilet facilities.

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

(zz) Section 503.2 is amended to read:

503.2 Location.

Toilet rooms and bathrooms serving rooming units or dormitory units or

housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

(aaa) Section 503.4 is amended to read:

503.4 Floor surface.

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.

(bbb) Section 505.1 is amended to read:

505.1 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. In dwelling units, housekeeping units, rooming units and dormitory units all kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with both hot or tempered running water and cold running water.

(ccc) Section 506.3 is deleted.

(ddd) Section 602.2 is amended to read:

602.2 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. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

(eee) Section 602.3 is amended to read:

602.3 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 October 1 to March 30 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

(fff) Section 602.4 is amended to read:

602.4 Occupiable work spaces.

Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to March 30 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

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

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

(ggg) Section 604.2 is deleted.

(hhh) Sections 604.3.1, 604.3.1.1, 604.3.2, and 604.3.2.1 are deleted.

(iii) Section 606 is deleted in its entirety.

(jjj) Section 701 is deleted.

(kkk) Section 702.1 is amended to read:

702.1 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 Florida Fire Prevention Code.

(lll) Section 702.2 is deleted.

(mmm) Section 702.3 is amended to read:

702.3 Locked doors.

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

(nnn) Section 702.4 is deleted.

(ooo) Section 703 is deleted.

(ppp) Section 704.1 is amended to read:

704.1 General.

A person shall not occupy as owner-occupant nor shall let to another for occupancy, any building or structure which is not equipped with adequate fire prevention equipment in accordance with the Florida Fire Prevention Code. 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 Florida Fire Prevention Code.

(qqq) Section 704.1.1 is deleted.

(rrr) Section 704.2 is amended to read:

704.2 Smoke Alarms.

Every dwelling unit shall be provided with an approved listed smoke alarm, installed in accordance with the manufacturer's recommendations and listing. When activated, the device shall provide an audible alarm.

(sss) Section 704.3 and 704.4 are deleted.

SECTION 6. Section 12-1 of the City of Winter Haven Code of Ordinances is amended to read (language stricken is shown as ~~strikethrough~~ text; language added is shown as underlined text):

Sec. 12-1. Sanitary nuisance.

(a) A sanitary nuisance in the City is hereby declared to be the commission of any act, by any person, or the keeping, maintaining, propagation, existence or permitting anything, by any person, by which the life or health of any person may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused or the environment of any person rendered unclean or unwholesome.

(b) Rubbish, debris, trash, junk or nonoperational automobiles, and unsightly and unsanitary excavations or depressions on any land or sidewalks within the City limits are detrimental to health and welfare of the citizens of the City, and are hereby declared to be a nuisance. Weeds and undergrowth which are over twelve (12) inches in height serve as a backstop for wind-driven litter and thus constitute a nuisance and a violation of this section. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided that the term weeds shall not include cultivated flowers, cultivated gardens and Central region plants listed on the most current edition of the Florida-Friendly Plant List issued by the University of Florida Institute of Food and Agricultural Sciences, so long as such flowers, gardens and plants are maintained in an aesthetically pleasing manner and do not constitute a dangerous or nuisance condition as determined in the sole discretion of the City; provided further however that all noxious weeds shall be prohibited.

SECTION 7. Section 12-7 of the City of Winter Haven Code of Ordinances is

amended to read (language stricken is shown as ~~strikethrough~~ text; language added is shown as underlined text):

Sec. 12-7. Right to appeal notice.

Any owner aggrieved by the findings and order of the code enforcement officer as set forth in section 12-4 shall have the right to appeal said decision prior to the expiration of the time within which such owner was given to abate the nuisance. Any appeal taken pursuant to this section must be requested, in writing, and timely received by the ~~code enforcement division of the city~~ City Clerk at 451 3rd Street, N.W. In the event the time for owner to abate the nuisance expires on a weekend, evening or a holiday, owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the city of owner's request. The enforcement officer shall place the appeal on the agenda of the next scheduled ~~board of adjustment meeting or may request a special meeting to hear the appeal~~ regular meeting of the section 2-61 special master. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held.

SECTION 8. Section 12-8 of the City of Winter Haven Code of Ordinances is amended to read (language stricken is shown as ~~strikethrough~~ text; language added is shown as underlined text):

Sec. 12-8. Hearing procedure.

The rules of the ~~board of adjustment~~ section 2-61 special master concerning appeals shall be followed. It shall be the responsibility of the owner of the property in question to show that the city's actions are without reason. The ~~board~~ special master shall determine whether the appeal is justified. If not, the city shall proceed with the

clearance.

SECTION 9. Section 12-9 of the City of Winter Haven Code of Ordinances is amended to read (language stricken is shown as ~~strikethrough~~ text; language added is shown as underlined text):

Sec. 12-9. Recorded statement constitutes lien.

Where the full amount due the city is not paid by the owner of property coming under this chapter within thirty (30) days after the cutting, destroying and/or removal of such weeds, grass, undergrowth, rubbish, debris, trash, deleterious and unhealthy growth or other noxious matter as set forth in sections 12-4 through 12-6, then in that case the code enforcement officer shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place or property on which such work was done, and the recordation of such sworn statement shall constitute a special assessment lien and privilege on the property, equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and such lien shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made.

SECTION 10. Section 12-11 of the City of Winter Haven Code of Ordinances is created to read:

Sec. 12-11. Alternative Collection of Abatement and Violation Correction Special Assessment Liens.

(a) At the City Manager's option, a resolution may be prepared for consideration by the City Commission identifying outstanding special assessments

owed to the City for municipal abatement of nuisances and municipal correction of violations of the minimum property maintenance standards of the City, including municipal demolition of one or more structures, and seeking authorization to collect such special assessments as non-ad valorem property tax pursuant to Chapter 197 F.S. The proposed resolution shall designate the name and address of the owner, a description of the lots or land and the charges to be assessed against such lots or land for abatement or corrective activity. If prepared, the resolution shall be presented to the City Commission by the City Attorney and, upon approval of the resolution by the City Commission, outstanding charges shall be assessed against the property and shall be and remain a lien against such property prior to all other liens or interests, save and except taxes, and shall bear interest at the rate of eight (8) percent per annum from the date the resolution is approved by the City Commission.

(b) Before adoption of the resolution specified in paragraph (a), the City Commission shall cause to be published a notice directed to the owner(s) of the subject property, designating a time and place where complaints will be heard with reference to the proposed assessment and when such assessment will be finally approved and confirmed by the City Commission. A copy of such notice shall be served upon the property owner(s) by first class U.S. mail at the owner's last known address as same appears on the records of the property appraiser of the county. The failure to mail such notice or notices shall not invalidate any of the proceedings under this ordinance.

(c) At the time and place designated in the notice provided in paragraph (b), the City Commission shall meet as an equalizing board to hear and consider any and all complaints as to such assessment and shall adjust and equalize the assessment, and

when so equalized and approved and the resolution specified in paragraph (a) adopted, such assessment shall stand confirmed and be and remain a legal, valid and binding lien upon the property against which such assessment is made until paid.

(d) To the extent not inconsistent with general or special law, special assessment liens created and perfected pursuant to the provisions set forth herein and unrecorded at the time of the filing for record of a notice of lis pendens against the subject property shall nonetheless be enforceable against the subject property and shall have the priority specified herein if the City's interest or lien did not arise until after the filing for record of such notice of lis pendens.

(e) Only special assessments which may become a lien against homestead as permitted by s. 4, Art. X of the State Constitution may be collected using the alternative method described herein, if the property in question is entitled to homestead protection.

SECTION 11. As determined solely by the Code Enforcement Officer responsible for implementing and enforcing the International Property Maintenance Code, as amended herein, and the Code of Ordinances of the City of Winter Haven, courtesy notifications, such as letters or door hangers, may be used to the extent practical and feasible to apprise persons of alleged violations.

SECTION 12. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent necessary to give this ordinance full force and effect.

SECTION 13. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Winter Haven,

Florida hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 14. Nothing in this ordinance or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by the adoption of this ordinance.

SECTION 15. It is the intent of the City Commission that the provisions of this ordinance found in Sections 1, 3, 4, 5, 6, 7, 8, 9 and 10 shall become and be made part of the Code of Ordinances of the City; and that sections of this ordinance may be re-numbered or re-lettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this ordinance may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 16. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect on January 1, 2011.

INTRODUCED AND PASSED on first reading this 8th day of March, 2010.

PASSED AND ADOPTED after public hearing on second reading this 23rd day of August, 2010.

CITY OF WINTER HAVEN

Jeff Potter, Mayor

ATTEST:

Dorothy R. Johnson, City Clerk

APPROVED AS TO FORM:

Frederick J. Murphy, Jr., City Attorney

CITY OF WINTER HAVEN MINIMUM PROPERTY MAINTENANCE STANDARDS

CHAPTER 1 SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the *Minimum Property Maintenance Standards* of the City of Winter Haven, hereinafter referred to as "this code."

Reference SHC 101.1 Title

101.2 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, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

Reference SHC 101.3 Scope

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

Reference SHC 101.1 Title

101.4 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.

Reference SHC 109 Validity

SECTION 102 APPLICABILITY

102.1 General. Where there is a specific conflict between a general requirement of this code and a specific requirement of this code, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standard in this code, this code shall generally govern, except that Chapter 553, Florida Statutes, the Florida Building Code and all referenced standards of the Florida Building Code shall control all matters relating to building construction, repair and remodeling and the Florida Fire Prevention Code / Florida Life Safety Code shall control all matters relating to fire safety. Where, in a specific case, different sections of this code specify different requirements, the most restrictive will govern.

New Provision

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from, shut off from, or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. 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 designated agent shall be responsible for the maintenance of buildings, structures and premises.

Reference SHC 101.6 Maintenance

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of Chapter 553, Florida Statutes and any applicable building codes, including, but not limited to, the Florida Building Code. Nothing in this code shall be construed to cancel, modify or set aside any of the provisions of Chapter 553, Florida Statutes or any applicable building codes to a particular project, including, but not limited to, the Florida Building Code or any referenced standard therein.

Reference SHC 101.7 Application of Zoning Ordinance

102.4 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 unsanitary.

New Provision

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

New Provision

102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures that are designated as historic by the National Park Service and listed on the National Register of Historic Places when such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety and welfare.

Reference SHC 101.5 Special Historic Buildings and Districts

102.7 Referenced codes and standards. The codes and standards referenced throughout this code shall be considered part of this code and are accordingly adopted and incorporated herein by reference to the prescribed extent of such reference. Where differences occur between provisions of this code and the referenced standards, the more stringent standard shall apply.

New Provision

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public

safety, health and general welfare, not specifically covered by this code, shall be determined by the Code Official using the following:

- (1) Reference to the manufacturer's suggested guidelines or instructions for installation and use;
- (2) Reference to the Florida Building Code or any other applicable building code;
- (3) Reference to primary law (including federal, state, and local sources);
- (4) Reference to any generally accepted practice in the industry, occupation, or general use for which the existing fixture, structure or equipment is primarily designed for, or for which the public health, safety, and welfare requires; or
- (5) Reference to any other suitably acceptable source of custom or practice reasonably accepted by society and sufficiently reliable in nature such that the requirement would be generally known and accepted in the community.

The Code Official, upon observing a deficiency in a requirement necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health, and general welfare, shall, in addition to regular enforcement protocol, issue along with the first notice a written determination including the basis for requirement and the necessary steps to correct the deficiency observed to meet the requirement.

Reference SHC 103.3 Requirements not Covered by Code

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

New Provision

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

New Provision

PART 2 – ADMINISTRATION AND ENFORCEMENT

SECTION 103 CODE ENFORCEMENT UNIT

103.1 Code Officials. Each Code Enforcement Officer of the City is deemed a “Code Official” for the purposes of this code. Any notices required to be delivered to the Code Official under this code shall be delivered to the responsible Code Official for the case.

Reference SHC 102.1 Enforcement Officer

103.2 – 103.3: *Deleted*

103.4 Liability. In accordance with §768.28(9)(a), Florida Statutes, a City official, or employee charged with the enforcement of this code shall not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of his or her employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.

Reference SHC103.4 Liability

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The Code Official shall enforce the provisions of this code.

New Provision

104.2 Inspections. The Code Official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official 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.

Reference SHC 104 Inspections

104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.

Reference SHC 103.1 Right of Entry

104.4 Identification. The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

Reference SHC 103.1 Right of Entry

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

New Provision

104.6 Department records. The Code Official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

Reference SHC 102.3 Records

SECTION 105
APPROVAL
(New Section)

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the Development Review Committee shall have the authority to grant modifications to structures for individual cases as may be deemed necessary in its discretion. No modification from the terms of this code shall be issued unless the Development Review Committee finds, based on competent substantial written evidence submitted to the Community Development Department at least seven (7) business days before the day of the scheduled Committee meeting, that all of the following conditions are met:

- (1) The requested modification is in compliance with the intent and purpose of this code;
- (2) The requested modification does not lessen health, life, safety and fire requirements;
- (3) The circumstances giving rise to the requested modification are peculiar to the structure and do not arise from the actions of a structure owner or occupant;
- (4) The requested modification, if approved, will not confer any special privilege that is denied by the provisions of this code to other similarly situated structures;
- (5) Literal interpretation of the provisions of this code would deprive the structure owner or occupant of rights commonly enjoyed by other similarly situated structures; and
- (6) The requested modification, if approved, is the minimum modification that will allow reasonable use of the structure.

All requests for modifications must be submitted to the City in writing. It is the requester's responsibility to include a proper mailing address with the written request for modification.

While it is preferred that the requester provide evidence supporting the modification to the Development Review Committee at the time of making the written request, to ensure that the requester is given adequate opportunity to provide the Development Review Committee with all relevant evidence, the Planning and Community Development Director shall, upon receipt of a request for modification, forward a notice, along with a copy of this Section, to the address supplied by the requester that identifies the Committee meeting date and the deadline for document submittal.

Should a modification to this code be approved, the Development Review Committee shall draft a modification order and shall forward a copy of the modification order to the Code Official for placement in the Code Official's files and a copy of the modification order to the Building Official for placement in the Building Official's files.

Modifications to this code granted by the Development Review Committee are not variances and do not run with the land, and upon the application for a building permit from the City for the subject building, structure or premises by the owner or occupant thereof, such modifications shall cease to be in existence and the subject building, structure or premises must be brought into compliance with this code as a condition of issuance of the permit.

Any aggrieved person adversely affected by a decision of the Development Review Committee made pursuant to this Section shall, within thirty (30) days of rendition of the decision, make appeal to an applicable Court of law in accordance with the Florida Rules of Appellate Procedure by filing with such Court a petition for writ of certiorari. Such an appeal shall be in the nature of that from a final administrative decision.

New Provision

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

New Provision

105.3 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 code official shall have the authority, but not the obligation, to require tests to be made as evidence of compliance at the property owner's expense.

New Provision

105.4 Used material and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and

tested when necessary, placed in good and proper working condition and approved by the Code Official.

New Provision

105.5 Approved materials and equipment. Materials, equipment and devices approved by the Code Official shall be constructed and installed in accordance with such approval.

New Provision

SECTION 106 VIOLATIONS

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

New Provision

106.2 Enforcement protocol. The Code Official shall enforce the provisions of this Code in any manner or protocol available including, but not limited to, issuance of a citation pursuant to §162.21, Florida Statutes and §2-201, et seq., Code of Ordinances of the City of Winter Haven, a “Notice of Hearing” pursuant to §162.12, Florida Statutes and §2-61, et seq., Code of Ordinances of the City of Winter Haven, a “Notice to Appear” pursuant to §162.23, Florida Statutes, a “Demand for Removal” pursuant to §12-1, et. seq., Code of Ordinances of the City of Winter Haven, a “Demand for Correction” pursuant to §106.3 of this code, or referral to the City Attorney for filing a civil enforcement action. The enumeration of remedies and protocols herein does not constrain the Code Official who, as an officer of a Florida municipality endowed with home rule authority, may use any lawful means necessary to bring a code violation into compliance, to restrain, correct, or to prevent illegal occupancy of any building, structure or premises, or to stop an illegal act, conduct, business or utilization of any building, structure or premises.

New Provision

106.3 Declaration of nuisance; demand for correction. A violation of any provision of this code is deemed to be a nuisance affecting the public health, safety and welfare, and accordingly, the Code Official is hereby authorized and empowered to notify, in writing, the owner or agent of such owner, of any building, structure or premises within the City, to make such repairs as may be required to abate the nuisance condition and bring such building, structure or premises into compliance. Notice shall be provided to the owner or agent of such owner either (a) in the manner described in §162.12, Florida Statutes, or (b) in the manner described in §12-4, Code of Ordinances of the City of Winter Haven.

The notice required to be given herein shall set forth the legal description of the property underlying the building, structure or premises as is set forth in the latest tax roll prepared by the county, and shall specify a reasonable time in which the owner or agent of the owner shall abate the condition and bring such building, structure or premises into compliance. Such notice shall have attached thereto a true copy of this section. Included in the notice shall be a statement informing the owner that all costs incurred by the City in abating the nuisance

condition and repairing the condition and bring such building, structure or premises into compliance shall be billed to the property owner.

Upon the failure, neglect or refusal of any owner or the agent of such owner so notified to abate the nuisance condition and make repairs within the reasonable time specified after posting the building, structure or premises, the Code Official is hereby authorized to order the repair of the building, structure or premises and bill the owner for the work.

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which such owner was given to abate the nuisance. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 451 3rd Street NW, Winter Haven, Florida. In the event the time for owner to abate the nuisance expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Special Master Hearing or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. At such hearing, the rules of the Special Master concerning appeals shall be followed. It shall be the responsibility of the owner of the property in question to show that the City's actions are without reason. The Special Master shall determine whether the appeal is justified. If not, the city shall proceed with the abatement.

After abatement and billing by the City, where the full amount due the City is not paid by the owner of the building, structure or premises within thirty (30) days after the billing date, the Code Official shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which such work was done, and the recordation of such sworn statement shall constitute a special assessment lien on the property equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such special assessment lien may be foreclosed in the manner provided for by general law.

This provision is supplemental in nature and is not intended to be the exclusive remedy by which this code may be enforced.

New Provision

106.4 Violation penalties; remedies additional and supplemental. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, may be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Each remedy provided for in this code is an additional and supplemental means of enforcing City codes and ordinances and may be used for the enforcement of this code singularly or in tandem. Nothing contained herein shall prohibit the City from enforcing its codes and ordinances by any other means. *Reference SHC 108 Violations and Penalties*

106.5 Abatement of violation. The imposition of the penalties herein shall not preclude the Code Official from referring a particular case to the City Attorney to institute appropriate action to restrain, correct, 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.
New Provision

SECTION 107
NOTICES AND ORDERS
(New Section)

107.1 Notices. Notice of a violation of this code shall be delivered in accordance with the substantive law governing the Code Official's chosen enforcement protocol or protocols.
New Provision

107.2 – 107.3: *Deleted*

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the Code Official shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Official.
New Provision

107.5: *Deleted*

107.6 Transfer of ownership. It shall be unlawful for the owner of any building, structure or premises who has received a citation, a notice of violation, a demand for removal or a demand for correction to sell, transfer, mortgage, lease or otherwise dispose of such building, structure, or premises until the provisions of the citation, notice of violation, demand for removal or demand for correction have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of the citation, or notice of violation, demand for removal or demand for correction and then provide to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such citation, notice of violation, demand for removal or demand for correction and fully accepting the responsibility without condition for making the corrections or repairs required thereby.
Reference Florida Statute 162.06(5)

A true and correct copy of this section shall be attached to all citations, notices of violation, demands for removal and demands for correction issued pursuant to this code, although the failure to attach a copy thereto will not affect the validity of the instrument, nor shall it affect the validity of this section.

Any person violating this section shall be subject to the penalty found in §1-13, Code of Ordinances of the City of Winter Haven.
New Provision

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

108.1 General. When a structure or equipment is found by the Code Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

New Provision

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

Reference SHC 103.2 Unsafe Residential Buildings

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

New Provision

108.1.3 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, 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.

Reference SHC 103.2 Unsafe Residential Buildings

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

New Provision

108.1.5 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.

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the requirements for existing buildings identified in Chapter 553, Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code or the Florida Life Safety Code.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. 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 or artificial loads of one and one-half the original designed value.
5. 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.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
7. 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, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. 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 of 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.
9. 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 light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of lack of sufficient or proper fire-resistance-related construction, fire protection systems, electrical system, fuel connections,

mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.

11. 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 building or portion thereof as an attractive nuisance or hazard to the public.

Reference SHC 309.1 Dangerous Structures

108.2 Closing of vacant structures. If a structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, but is open such that the interior of the structure is easily accessible through open or broken windows, open or broken doors, or missing structural elements, the Code Official is authorized to issue a demand for correction in accordance with §106.3 of this code.

Alternatively, should the structure

- (1) pose an imminent danger to the health, safety, and welfare of the general public;
- (2) be occupied periodically by transients or itinerants; or
- (3) be utilized for illegal conduct in violation of any federal, state or local law, the Code Official is authorized to have the structure immediately closed up so as not to be an attractive nuisance by posting a notice at each entrance to the building entitled "Notice of Section 108.2 Closing" and by sealing each accessible entrance. A "Notice of Section 108.2 Closing" shall be in substantially the following form:

"NOTICE OF SECTION 108.2 CLOSING

This vacant structure is uninhabitable and has been closed by Order of the City of Winter Haven Code Enforcement Unit pursuant to Section 108.2(1), (2), and/or (3) of the Minimum Property Maintenance Standards of the City.

For information, please call (863) 291-5697".

When the Code Official elects to post a "notice of closing" on a vacant structure at each accessible entrance, in accordance with subsection (1), (2) or (3) above, the Code Official shall send a bill for the City's expense in closing the structure to the owner of the property underlying the structure or the agent of such owner of the property underlying the structure by United States certified mail, return receipt requested. Should the City's bill be returned unclaimed, the City may then post the bill on the closed structure and at a conspicuous location at City Hall for ten (10) days, which, on the tenth day after posting, shall constitute the equivalent of delivery. After billing by the City, if the full amount due the City is not paid by the owner of the structure or the agent of the owner of the structure within thirty (30) days after receipt of the bill or after the expiration of ten (10) days after posting the bill, the Code Official shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which such work was done, and an affidavit of constructive service by posting, if any, and the recordation of such sworn statement shall constitute a special assessment lien on the

property equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such special assessment lien may be foreclosed in the manner provided for by general law.

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which to pay the bill for closing the structure due the City. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 451 3rd Street NW, Winter Haven, Florida. In the event the time for owner to pay expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Special Master Hearing or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. At such hearing, the rules of the Special Master concerning appeals shall be followed. It shall be the responsibility of the owner of the property in question to show that the City's actions are without reason. The Special Master shall determine whether the appeal is justified. If it is determined by the Special Master, based on competent substantial evidence in the record, that the City's actions are without reason, the cost for closing the structure shall be borne by the City.

No structure closed by the City pursuant to this section may be reopened unless said structure is wholly compliant with this code or unless it is shown during a timely appeal after hearing that the City's actions in closing the structure were without reason.

New Provision

108.2.1 Authority to disconnect service utilities. The Code Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The Code Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to the disconnection the owner or occupant of the building, structure, or service system shall be notified in writing as soon as practical thereafter.

New Provision

108.3 Notice. Whenever the Building Official has reason to condemn a structure or equipment under the provisions of this section, a notice of violation shall be posted in a conspicuous place on or about the structure affected by such notice and served on the owners of land, the agent of such owners, or the person or persons responsible for the structure or equipment by United States certified mail, return receipt requested. If the notice pertains to equipment, it shall also be placed on the equipment in violation. The notice shall specify a reasonable time in which the structure or equipment owner or the person or persons

responsible for the structure or equipment shall abate the condition and bring such structure or equipment into compliance.

Reference SHC 309.2 Form of Notice & 309.3 Service of Notice

108.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official 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.

Reference SHC 309.3 Service of Notice

108.4.1 Placard removal. The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties provided by this code.

Reference SHC 309.6 Removal of Placard or Notice

108.5 Prohibited occupancy. Any occupied structure condemned by the Building Official and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, agent of such owner, or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be subject to the penalty in §1-13, Code of Ordinances of the City of Winter Haven.

Reference SHC 309.5 Occupancy of Building

108.6 Abatement methods. The owner, operator or occupant of a building, premises or equipment deemed unsafe by the Code Official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

New Provision

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

New Provision

108.8 Boarded up structures. No vacant structure may be boarded up by its owner for a period of time exceeding one hundred twenty (120) days unless:

- (1) the owner is granted a written waiver signed by the Building Official and the Code Official; or
- (2) the structure has been closed in accordance with §108.2 of this code.

All vacant structures shall be maintained in accordance with §304.6 of this code ("Exterior walls"), and all materials used to enclose the building must be neatly fitted within window and door openings and must be painted to blend in with the rest of the building. Closing a

structure in accordance with §108.2 of this code does not relieve the owner from complying with this provision.

New Provision

SECTION 109
EMERGENCY MEASURES
(New Section)

109.1 Emergency closing. When,

- (1) in the opinion of the Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or
- (2) any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or
- (3) in the opinion of the Code Official or Building Official, 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;

both the Code Official and the Building Official are authorized and empowered to order and require the occupants to vacate the premises forthwith. The Official ordering the vacation of the premises shall immediately thereafter post, at each entrance to the structure, a notice in substantially the following form:

“DANGER! THIS STRUCTURE IS CLOSED TO THE PUBLIC! DANGER!
NOTICE OF EMERGENCY CLOSING IMMEDIATE ORDER OF CLOSURE
This structure is unsafe and has been closed by Order of the City of Winter Haven pursuant to Section 109.1 of the Minimum Property Maintenance Standards of the City.
For information, please call the Code Enforcement Unit at (863) 291-5697 or the Building Division at (863) 291-5695”.

Any person ordered to take emergency measures shall comply with such order forthwith. It shall be unlawful for an person to enter a posted structure except for the purpose of securing the structure, making the required inspections and repairs, removing the hazardous condition, or to demolish the structure. Any such person in violation of this provision is subject to the penalty found in §1-13, Code of Ordinances of the City of Winter Haven and may be immediately removed from the structure by City personnel.

New Provision

109.2 Temporary safeguards. Whenever, in the opinion of the Code Official or Building Official as the situation may require, there is an emergency situation warranting an emergency closing of a structure pursuant to §109.1(1), (2), or (3) of this code, the City and the Official ordering the closing of the structure is authorized to order that work be done in an attempt to secure the structure such that it may be rendered temporarily safe. Neither the City nor the official ordering the closing of the structure however is under any obligation under

this Section to perform any work to ensure that the structure is rendered safe. Further, should the City or the official ordering the closing of the structure choose to order that work be done in an attempt to secure the structure, neither the City nor the Official ordering the closing of the structure shall be liable for any damage done to the structure during the performance of such safeguard work.

New Provision

109.3 Closing streets. When necessary for public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

New Provision

109.4 Notification of emergency closing to City Commission. The City Manager shall provide the City Commission notice of any emergency closing actions taken by the City pursuant to this Code. The failure to provide such notice shall have no effect on the validity of enforcement actions taken hereunder.

New Provision

109.5 Costs of safeguard work. Costs incurred in the performance of safeguard work shall be paid by the City of Winter Haven, but shall be assessed against the owner of the structure, as a special assessment on the real property underlying the structure, upon a showing at the mandatory hearing described in §109.6 of this code, by competent substantial evidence, that the safeguard work was required by exigencies of the situation, given the totality of the circumstances.

New Provision

109.6 Mandatory hearing; appeal. Immediately after closing a structure pursuant to §109.1 of this code, the official closing the structure shall request a hearing as soon as possible before the Code Enforcement Special Master for the purpose of reviewing the decision of the official to determine whether it was reasonable under the totality of the circumstances. Such hearing shall be conducted in accordance with the rules for the Special Master and any decision rendered by the Special Master as to the propriety of the closure must be based on competent substantial evidence. Any appeal from the decision of the Special Master under this provision shall be taken by filing a petition for certiorari with the appropriate court under the Florida Rules of Appellate Procedure. The nature of such an appeal shall be from a final administrative order of the City.

New Provision

CHAPTER 2 DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

New Provision

201.2 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.

Reference SHC 201.1 Tense, Gender and Number

201.3: Deleted

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Reference SHC 201.2 Special Meaning and Words Not Defined

201.5 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."

Reference SHC 201.2 Special Meaning and Words Not Defined

SECTION 202 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Approved by the Code Official.

BASEMENT. That portion of a building which is partly or completely below grade.

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

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

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

CONDEMN. To adjudge unfit for occupancy.

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

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

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

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

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.

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

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

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

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.

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

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

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

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

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

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

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

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

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

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.

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.

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

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

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.

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.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials,

paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

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

STRUCTURE. That which is built or constructed or a portion thereof.

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

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

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

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

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

Note – §5-73(ii) of the Code of Ordinances states that “Terms not defined in Section 202 shall, for purposes of [the minimum property maintenance standards of the City], have the corresponding meanings assigned to them by §21-531 of the City’s Code of Ordinances.”

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL *(New Section)*

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

New Provision

301.2 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.

New Provision

301.3 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.

New Provision

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation and storage of materials. 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.

No owner or occupant shall permit old or broken lumber, rusted or unused equipment, discarded refrigerators, discarded stoves, old pipe or other used, discarded and worn, unsightly articles or materials to remain in any yard or open area owned, occupied or in the possession of such person for a period of more than five (5) days.

Further, unless authorized by the zoning category of the property, no owner or occupant of a building, structure or premises may utilize such property for the open storage of abandoned, untagged, or inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material rubbish or similar items.

Reference SHC 307.1 Sanitation, 307.2 Cleanliness, and 307.4 Care of Premises

Reference WHC 12-1, 12-3, 12-86

302.2 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.

Exception: Approved retention areas and reservoirs.

New Provision

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

New Provision

302.4 Weeds and overgrowth. All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided that the term weeds shall not include cultivated flowers, cultivated gardens and Central region plants listed on the most current edition of the Florida Friendly Plant List issued by the University of Florida Institute of Food and Agricultural Sciences, so long as such flowers, gardens and plants are maintained in an aesthetically pleasing manner and do not constitute a dangerous or nuisance condition as determined in the discretion of the Code Official; provided further however that all noxious weeds shall be prohibited.

Reference SHC 307.4 Care of Premises & WHC 12-1, 12-3

302.5 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.

Reference SHC 307.5 Extermination

302.6 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.

New Provision

302.7 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

Reference SHC 305.15 Accessory Structures & WHC 21-68, 21-102, 21-103

302.8 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Reference SHC 307.4 Care of Premises & WHC 12-1, 12-3, 12-86

302.9 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.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

New Provision

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS (New Section)

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

New Provision

303.2 Enclosures. Private 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. 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 poolside 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 (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

New Provision to Housing Code – No SHC References

Reference WHC 21-103(a)(5)

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

New Provision

304.2 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 watertight. 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.

Reference SHC 305.14 Protective Treatment

304.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of three (3) inches (76.2 mm) high with a minimum one-half (.5) inch (12.7 mm) stroke width.

New Provision to Housing Code – No SHC References

Reference WHC 15-68

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

New Provision

304.5 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.

Reference SHC 305.1 Foundation

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

Reference SHC 305.2 Exterior Walls

304.7 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.

Reference SHC 305.3 Roofs

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

New Provision

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. 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.

New Provision

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in

good repair, with proper anchorage and capable of supporting the imposed loads. *Reference SHC 305.5 Stairs, Porches and Appurtenances*

304.11 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.

New Provision

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

Reference SHC 305.6 Protective Railings

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

Reference SHC 305.7 Windows, 305.9 Window Sash, and 305.12.1 Exterior Door Frames

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

Reference SHC 305.8 Windows to be Glazed

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

Reference SHC 305.10 Windows to be Openable

304.14 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 (sixteen) 16 mesh per one (1) inch (25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. All Screens shall be maintained free from open rips, tears, or other defects.

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

Reference SHC 305.13 Screens

304.15 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

Reference SHC 305.11 Exterior Doors

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

Reference SHC 305.11 Exterior Doors

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

New Provision

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

Reference SHC 305.21 Interior Door Hardware & 305.11 Exterior Doors

304.18.1 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 from 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 manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

Reference SHC 305.21 Interior Door Hardware & 305.11 Exterior Doors

304.18.2 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 device.

New Provision

304.18.3 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.

New Provision

304.19 Skirting around foundations. Latticework or similar approved material must be installed along continuous openings on the outside perimeter of buildings with floors elevated above the ground and where more than twelve (12) inches of vertical opening area exists from the ground to the building wall. The installation must be performed in an approved aesthetic manner in accordance with typical construction methods in practice. Existing skirting shall be maintained in good repair and free from broken or missing sections, pieces or cross members.

Reference SHC 305.23 Skirting

SECTION 305 INTERIOR STRUCTURE

305.1 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 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. *New Provision*

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

Reference SHC 305.17 Structural Supports

305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

Reference SHC 305.16 Interior Floors, Walls, and Ceilings

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

Reference SHC 305.18 Protective Railings for Interior Stairs

305.5 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

Reference SHC 305.18 Protective Railings for Interior Stairs

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

Reference SHC 305.20 Interior Doors

SECTION 306 – Deleted

SECTION 307 HANDRAILS AND GUARDRAILS

307.1 General. Every exterior and interior flight of stairs shall have handrails and guardrails installed in accordance with Chapter 553, Florida Statutes and applicable portions of the Florida Building Code.

Reference SHC 305.6 Protective Railings & 305.18 Protective Railings for Interior Stairs

SECTION 308 RUBBISH AND GARBAGE

308.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

New Provision to Housing Code – No SHC References

Reference WHC 12-1, 12-3, 12-86

308.2 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.

Reference SHC 302.7 Garbage Disposal Facilities

308.2.1 Deleted. *Reference SHC 302.7 Garbage Disposal Facilities*

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.
Reference SHC 307.4 Care of Premises

308.3 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.
Reference SHC 307.3 Garbage Disposal

308.3.1 Deleted.
Reference SHC 302.7 Garbage Disposal Facilities

308.3.2 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.
New Provision

SECTION 309 PEST EXTERMINATION

309.1 Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.
Reference SHC 307.5 Extermination

309.2 Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
Reference SHC 307.5 Extermination

309.3 Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.
Reference SHC 307.5 Extermination

309.4 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 and owner shall be responsible for extermination.
New Provision

309.5 Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

New Provision

CHAPTER 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

SECTION 401 GENERAL *(New Section)*

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

New Provision

401.2 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.

New Provision

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

New Provision

SECTION 402 LIGHT

402.1 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 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 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.

Exception: 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 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.

Reference SHC 303.1 Windows

402.2 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 at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, 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 1 foot candle (11 lux) at floors, landings and treads.

Reference SHC 303.5 Light in Public Halls and Stairways

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

New Provision

SECTION 403 VENTILATION

403.1 Habitable spaces. Every habitable space shall have at least one operable window. The total operable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

Exception: 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 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

Reference SHC 303.2 Ventilation

403.2 Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, 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.

Reference SHC 303.3 Bathroom

403.3 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 the rooming unit or dormitory unit.

Exceptions:

1. Where specifically approved in writing by the Code Official.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

New Provision

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

New Provision

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

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

New Provision

SECTION 404 OCCUPANCY LIMITATIONS

404.1 Privacy. Dwelling units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

New Provision

404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

New Provision

404.3 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 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 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 clear ceiling height of 5 feet (1524 mm) or more shall be included.

Reference SHC 306.3 Minimum Ceiling Height

404.4 Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

Reference SHC 306.1 Required Space in Dwelling Unit & 306.2 Required Space in Sleeping Rooms

404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2 m²) and every bedroom shall contain at least 70 square feet (6.5 m²). *Reference SHC 306.1 Required Space in Dwelling Unit & 306.2 Required Space in Sleeping Rooms*

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

Exception: Units that contain fewer than two bedrooms.
New Provision

404.4.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.
Reference SHC 302.2 Location of Sanitary Facilities

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

404.4.5 Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.
New Provision

404.5 Overcrowding. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the Code Official, endanger the life, health, safety or welfare of the occupants.
New Provision

404.6 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 two occupants shall have a clear floor area of not less than 220 square feet (20.4 m²). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m²). 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 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.

New Provision

404.7 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.

New Provision

CHAPTER 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION 501 GENERAL

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

New Provision

501.2 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.

Reference SHC 301 General

SECTION 502 REQUIRED FACILITIES

502.1 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.

Reference SHC 302.1 Sanitary Facilities & 302.2 Location of Sanitary Facilities

502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

Reference SHC 308.3 Water Closet, Lavatory and Bath Facilities

502.3 Deleted.

502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

New Provision

502.4.1 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.

New Provision

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

New Provision

SECTION 503 TOILET ROOMS

503.1 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.

Reference SHC 302.2 Location of Sanitary Facilities & 305.22 Bathroom Doors

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

New Provision

503.3 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 story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: 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 500 feet (152 m) from the employees' regular working area to the facilities.

New Provision

503.4 Floor surface. 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.

Reference SHC 305.16.2 Interior Floors, Walls, and Ceilings

SECTION 504 PLUMBING SYSTEMS AND FIXTURES

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

Reference SHC 302.1 Sanitary Facilities

504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

New Provision

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

SECTION 505 WATER SYSTEM

505.1 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. In dwelling units, housekeeping units, rooming units and dormitory units all kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with both hot or tempered running water and cold running water.

Reference SHC 302.3 Hot and Cold Water Supply

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

New Provision

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

New Provision

505.4 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 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.

Reference SHC 302.4 Water Heating Facilities

SECTION 506 SANITARY DRAINAGE SYSTEM

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

Reference SHC 302.1 Sanitary Facilities

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

Reference SHC 302.1 Sanitary Facilities

SECTION 507
STORM DRAINAGE
(New Section)

507.1 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.

New Provision

CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 601 GENERAL

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

Reference SHC 302.5 Heating Facilities

601.2 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.

Reference SHC 302.5 Heating Facilities

SECTION 602 HEATING FACILITIES

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

Reference SHC 302.5 Heating Facilities

602.2 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. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Reference SHC 302.5.1 Heating Facilities

602.3 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 October 1 to March 30 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Reference SHC 302.5 Heating Facilities

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to March 30 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

New Provision

602.5 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.

Reference SHC 302.5.1 Heating Facilities

SECTION 603 MECHANICAL EQUIPMENT (New Section)

603.1 Mechanical appliances. All mechanical 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.

New Provision

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

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

New Provision

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

New Provision

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

New Provision

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

New Provision

603.6 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.

New Provision

SECTION 604 ELECTRICAL FACILITIES

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

Reference SHC 304 Minimum Requirements for Electrical Systems

604.2: Deleted

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

Reference SHC 304 Minimum Requirements for Electrical Systems

SECTION 605 ELECTRICAL EQUIPMENT

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

Reference SHC 303.4 Electric Lights and Outlets

605.2 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.

Reference SHC 303.4 Electric Lights and Outlets

605.3 Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire.

Reference SHC 303.5 Light In Public Halls and Stairways

SECTION 606 – Deleted

SECTION 607 DUCT SYSTEMS (New Section)

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

New Provision

CHAPTER 7 FIRE SAFETY REQUIREMENTS

SECTION 701 – Deleted

SECTION 702 MEANS OF EGRESS

702.1 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 Florida Fire Prevention Code.

Reference SHC 305.4 Means of Egress

702.2: Deleted

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

Reference SHC 305.21 Interior Door Hardware

SECTION 703: Deleted

SECTION 704 FIRE PROTECTION SYSTEMS

704.1 General. A person shall not occupy as owner-occupant nor shall let to another for occupancy, any building or structure which is not equipped with adequate fire prevention equipment in accordance with the Florida Fire Prevention Code. 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 Florida Fire Prevention Code.

Reference SHC 302.8 Fire Protection

704.2 Smoke alarms. Every dwelling unit shall be provided with an approved listed smoke alarm, installed in accordance with the manufacturer's recommendations and listing. When activated, the alarm shall provide an audible alarm.

Reference SHC 302.9 Smoke Detector Systems