

ORDINANCE NO. 998

ORDINANCE FOR ADOPTION OF THE INTERNATIONAL PROPERTY
MAINTENANCE CODE, 2012 EDITION.

An ordinance of the City of Chapman adopting the 2012 edition of the International Property Maintenance Code, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Chapman; providing for the issuance of permits and collection of fees therefor; repealing all other ordinances and parts of the ordinances in conflict therewith.

THE GOVERNING BODY OF THE CITY OF CHAPMAN DOES ORDAIN AS
FOLLOWS:

Section 1. That a certain document, three (3) copies of which are on file in the office of the City Clerk of City of Chapman, being marked and designated as the International Property Maintenance Code, 2012 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Chapman, in the State of Kansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of Chapman are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised:

Section 102.3. Replaced by:

Section 102.3“Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the building code, CMC 4-201 et seq., the International Energy Conservation Code, CMC 4-1301, the International Fire Code, CMC 7-201, the International Mechanical Code, CMC 4-1501, the International Residential Code, CMC 4-1101, the International Plumbing Code, CMC 4-401, and the International Electrical Code, CMC 4-302.

Section 103. DELETED IN ITS ENTIRETY.

Sections 106.3-5. Replaced by:

106.3 Prosecution of violation, Replaced by:

106.3 Prosecution of violation. A person who fails to comply with a notice of violation served in accordance with Section 107, shall be guilty of a class C misdemeanor and, if convicted, may be punished with a fine of up to \$500 and/or 30 days in jail. A violation of this chapter shall be deemed a strict liability offense. Abatement of a violation by the code official shall not be a defense or excuse to a violation. The pendency of an administrative hearing pursuant to any city code shall not be a defense to a violation or prevent prosecution and adjudication in municipal court.

Section 106.4 Administrative penalties. Amended to read:

106.4 Administrative penalties.

(a) There shall be an administrative monetary penalty of \$100.00 imposed on the owner or, in the case of inoperative vehicles, the vehicle owner for each violation of this chapter that remains uncorrected after the time period stated in the notice of violation has elapsed.

(b) The administrative monetary penalty for a second or subsequent violation for which an administrative penalty has been imposed under this chapter that remains uncorrected after the time period stated in the notice of violation has elapsed for the same property within 12 months of the same or substantially same violation shall be \$200.00.

Section 106.5 Abatement of Violation. Amended to read:

106.5 Abatement of violation.

(a) Abatement. Upon the expiration of the compliance period stated in the notice of violation, the code official shall inspect the property. The code official may grant an extension of time if the owner demonstrates that due diligence is being exercised in abating the violation. If the owner has failed to comply within the compliance period, has failed to timely request an appeal hearing or, in the case of an unsafe structure, failed to appear at a hearing, the code official may abate the violation and assess the costs against the owner. If the costs are not paid within 30 days, the cost can be collected pursuant to K.S.A. 12-1,115 and amendments thereto and/or charged against the property pursuant to K.S.A. 12-1617e, K.S.A. 12-1617f, K.S.A. 12-1755, or K.S.A. 17-4759 and amendments thereto.

(b) Fees. The costs incurred by the city for abatement, including any administrative costs, shall be paid by the owner or, in the case of inoperative vehicles, the vehicle owner. The administrative costs shall be:

- General violations of the IPMC... \$140.00
- Weeds and grasses.....\$140.00
- Inoperative vehicles.....\$175.00

Sections 107.2-107.3. Replaced by:

107.2 Form. The notice prescribed in Section 107.1 shall include the following:

1. Description of the real estate sufficient for identification.
2. A statement that includes a description of the conditions and identifies violations.

3. A statement of the correction action necessary and a reasonable time to complete the action. A reasonable time shall not exceed 60 calendar days.
4. A statement that if the violation(s) is not corrected within the compliance period, the city may impose administrative penalties, abate the violation, and assess the costs against the owner.
5. A statement advising that any owner may request an appeal hearing before an administrative hearing officer. The request shall be submitted to the code official within 10 calendar days from the date of service. Failure to timely request a hearing will allow the city to impose administrative penalties, abate the violation, and assess the costs against the owner. The scope of the appeal shall be limited to the following: (i) whether the provisions of Chapter 8.60 apply; (ii) whether the code official has correctly interpreted Chapter 8.60; and/or (iii) whether the requirements of Chapter 8.60 can be adequately satisfied by other means.
6. A statement advising that failure to timely comply with the notice may result in prosecution in municipal court regardless whether an administrative hearing is pending.
7. If code official has determined that the structure is unsafe pursuant to Section 108, the notice shall state that a hearing will be held before the administrative hearing officer not less than 10 calendar days nor more than 30 calendar days after service of the notice.

107.3 Method of service.

(a) Method of Service. Notice shall be served in one of the following manners:

1. Personal service.
2. Certified mail, return receipt requested. Service shall be effective on the date of receipt.
3. If the property is unoccupied and the owner is a nonresident, certified mail, return receipt requested, to the last known address.
4. If the location of a person is unknown or if no address is available after diligent effort, then a copy of the notice shall be posted in a conspicuous place on the premises and published once in the official city newspaper. The failure of any such person to receive notice shall not affect the validity of any proceedings.
5. If the code official has determined that a structure is unsafe pursuant to Section 108 and the whereabouts of the owner are unknown and cannot be ascertained in the exercise of reasonable diligence, the code official may effect service by publishing the notice once each week for two consecutive weeks in the official city newspaper. A copy of the notice shall also be posted in a conspicuous place on the premises and a copy of the notice shall be filed with the register of deeds and the clerk of the district court of Dickinson County.
6. In addition to the methods identified in this section, the code official may provide notice by other methods, including, but not limited to, door hangers, conspicuously posting notice on the property, personal notification, telephone or email communication, or first class mail.
7. As authorized by K.S.A. 12-1617f, the code official may provide a one-time yearly written notice by mail or personal service to the owner or occupant which will permit subsequent abatement mowings without any additional notice. The

notice shall also include a statement that no further notice shall be given prior to cutting or removing weeds.

(b) Service of Notice. The notice shall be served upon the owner of record, and one copy shall be served on each of the following, if known or available from public records: (1) the holder of any mortgage, deed of trust, lien, or encumbrance; and (2) the holder of any other estate or legal interest of record. The failure of the code official to serve any person shall not invalidate any proceedings hereunder as to any other person duly served or relieve such person from any duty or obligation. If the code official has determined that a structure is unsafe pursuant to Section 108, the notice shall also be served on any occupant who can be ascertained.

(c) Proof of Service. Proof of service of the notice shall be certified at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice retained by the code official.

Section 109.5. Costs of Emergency Repairs, DELETED IN ITS ENTIRETY

109.6. Hearing, DELETED IN ITS ENTIRETY

Section 110.1. General: Replaced by:

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

In this section, "unreasonable to repair" means that the repair costs exceed 30% of the replacement value of the structure as established by the Dickinson County Appraiser.

Sections 111.1 – 111.2. Replaced by:

MEANS OF APPEAL

111.1 Administrative Appeal Hearing.

(a) An owner shall have the right to appeal the notice of violation to an administrative hearing officer provided that a written application is submitted to the code official within 10 calendar days from the date of service.

(b) An application for an appeal hearing shall be based on a claim that (i) the provisions of Chapter 8.60 do not apply; (ii) the code official has incorrectly interpreted the International Property Maintenance Code, as adopted; and/or (iii) the requirements of the International Property Maintenance Code, as adopted, can be adequately satisfied by other means. The owner may not appeal a requirement imposed by the International Property Maintenance Code, as adopted. The intent of the appeal process is not to waive or set aside a requirement; it is to provide a means of reviewing a code official's decision on an interpretation or application of the International Property Maintenance Code, as adopted, or reviewing a code official's decision to approve or reject the equivalency of protection to the International Property Maintenance Codes, as adopted, requirement.

(c) The administrative hearing officer shall schedule a hearing within three working days of receipt of the hearing request. Written notice of the hearing date and time shall be provided to the person requesting the hearing by first class mail. The hearing officer may continue the hearing to a later time.

(d) The administrative hearing officer shall review the notice of violation and all relevant information. If the hearing officer determines that: (i) the provisions of the International Property Maintenance Code, as adopted, apply; (ii) the code official has correctly interpreted the International Property Maintenance Code, as adopted,; and/or (iii) the requirements of the International Property Maintenance Code, as adopted, cannot be adequately satisfied by other means, the hearing officer shall order abatement of the violation, impose an administrative penalty, and assess the abatement costs against the owner.

111.2 Administrative Hearing; Unsafe Structure.

(a) After notice and hearing, if the administrative hearing officer determines that a structure is unsafe pursuant to Section 108, the administrative hearing officer shall state in writing the findings of facts in support of such determination and shall issue and cause to be served upon the owner an order: (1) to demolish and remove the structure within a prescribed period; or (2) if the structure is capable of being made safe by repairs, to repair and make safe and sanitary within a prescribed period.

(b) The administrative hearing officer may grant an extension of time where the administrative hearing officer finds that there is practical difficulty or undue hardship and that such extension is in harmony with the general purpose of this chapter to secure compliance with the International Property Maintenance Code, as adopted.

Sections 111.4 through 111.8 DELETED IN THEIR ENTIRETY.

Section 112.4 Failure to Comply. Replaced by: 112.4 Failure to comply. It is unlawful to continue any work after being served with a stop work order, unless the work is to remove a violation or abate an unsafe condition. The person may be charged with and punished as a class C misdemeanor through the municipal court.

Section 202, General Definitions. "Rubbish" to be amended to read:

RUBBISH. Combustible and noncombustible waste materials, except garbage. The term shall include but not be limited to: trash, junk, metal objects, plumbing fixtures, appliances, auto parts, tires, fencing, lumber, discarded or broken furniture, clothing, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, glass, crockery or the accumulation of any other similar materials.

Section 302.4. Weeds. Amended to read:

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of the property to comply with this section after service of a notice of violation, the person may be subject to prosecution in accordance with Section 106.3. Upon failure to comply with the notice, the city or its contractor may enter upon the property to remove or destroy the weeds and/or vegetation and assess the costs against the owner.

Section 304.14 Insect Screens. Amended to read:

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 minimum 16 mesh per inch (16 mesh per 25 mm).

Section 308.2. Disposal of Rubbish. Amended to read:

Section 308.2 Disposal of rubbish. Every occupant of a structure shall dispose of rubbish by depositing in tight receptacles.

(a) It shall be the duty of every owner, occupant, lessee or agent of or for any property within the limits of the city to provide tight receptacles in which to place or deposit all garbage, rubbish, filth, waste, refuse or any other matter. Such tight receptacles shall be containers which are impermeable by water and air. Any plastic bags used to hold garbage, rubbish, filth, waste, refuse or any other matter shall be placed in a tight receptacle except plastic bags holding leaves, weeds or grass cuttings.

(b) It shall be the duty of the owner, occupant, lessee or agent of or for the property to remove or cause to be removed the plastic bags holding leaves, weeds or grass cuttings and the contents of the tight receptacles when the receptacles become full or the contents become unsanitary. Further, it shall be unlawful for the owner, occupant, lessee or agent of or for any property to fail, neglect or refuse to remove the plastic bags holding leaves, weeds or grass cuttings and/or the contents of the tight receptacles when the receptacles become full or the

contents thereof become unsanitary, or when notified by the codes enforcement official to do so.

(c) All receptacles containing matter or anything whatever which is dangerous or detrimental to the public health shall be provided with flyproof covers, and it shall be unlawful for any person to deposit any of the matter designated in this section in a receptacle in the city unless such receptacle is provided with a flyproof cover.

Section 308.2.1 Rubbish storage facilities. DELETED IN ITS ENTIRETY.

Section 308.3 Disposal of garbage. Amended to Read:

308.3 Disposal of Garbage. Every occupant of a structure shall dispose of garbage in accordance with Section 308.2.

Section 308.3.1 Garbage facilities. DELETED IN ITS ENTIRETY

Section 308.3.2 Containers. DELETED IN ITS ENTIRETY

Section 309.3 Single Occupant. Amended to read:

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 after 30 days of occupancy.

Section 309.4 Multiple occupancy. Amended to read:

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.

Section 602.2 Residential occupancies. Amend 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, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Section 602.3 Heat supply. Amend 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 express or implied, to furnish heat to the occupants shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

Section 602.4 Occupiable work spaces. Amend to read:

602.4 Occupiable work spaces.

Indoor occupiable work spaces shall be supplied with heat 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.

Section 605.2 Receptacles. Amend to read:

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. All kitchen countertop receptacles and all bathroom receptacles are required to be a receptacle with a ground fault circuit interrupter. All receptacle outlets shall have the appropriate faceplate cover for that location.

Section 3. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That 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 GOVERNING BODY hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

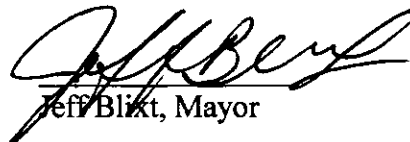
Section 5. That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the City Clerk is hereby ordered and directed to cause this ordinance to be published once in the official city newspaper or by certified summary as allowed by law.

Section 7. That 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 from and after the date of its final passage, adoption, and publication.

Passed and Approved the 13 day of September 2017.


Jeff Blixt, Mayor

ATTEST:


Erin Tilton, City Clerk