



# Property Maintenance Code of the City of Bayard



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# CHAPTER 1

## SCOPE AND ADMINISTRATION

### PART 1 — SCOPE AND APPLICATION

#### SECTION 101 GENERAL

##### **101.1 Title.**

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

##### **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, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, an owner’s authorized agent, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

##### **101.3 Intent.**

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

##### **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.

##### **101.5 Board of Health.**

Pursuant to § 36.21 of the City Code of the City of Bayard, this Property Maintenance Code shall constitute the rules and regulations for the Board of Health for safeguarding the health of the people of the City of Bayard; and enforcing the rules and regulations and providing fines for violations of the Property Maintenance Code.

#### SECTION 102 APPLICABILITY

##### **102.1 General.**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the

referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

### **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*, owner's authorized agent, *operator* or *occupant* shall cause any service, facility, equipment or utility that 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* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

### **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 the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70.

### **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 that is dangerous, unsafe and insanitary.

### **102.5 Workmanship.**

Repairs, maintenance work, alterations or installations that 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 instructions.

### **102.6 Historic buildings.**

The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

### **102.7 Referenced codes and standards.**

The codes and standards referenced in this code shall be those that are listed in Appendix A and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

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

#### **102.7.1 Conflicts.**

Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

#### **102.7.2 Provisions in referenced codes and standards.**

Where the extent of the reference to a referenced code or standard includes subject matter

that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

**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*.

**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.

**102.10 Other laws.**

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

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103  
BOARD OF HEALTH  
MAINTENANCE INSPECTION

**103.1 General.**

The City of Bayard maintains a Board of Health pursuant to Section 36.20 of the City Code. The Board of Health has the overall responsibility for enforcement of the Property Maintenance Code and designates the code official to enforce and report to the Board of Health concerning violations of the Property Maintenance Code. Any reference in the Property Maintenance Code to a determination by the code official that a violation of the Property Maintenance Code exists shall be reported to the Board of Health for final action except for issues involving the height of weeds, which shall be enforced pursuant to the provisions of Section 94.15 of the City Code. .

**103.2 Appointment.**

The *code official* shall be appointed by the Mayor, with approval of the City Council.

**103.3 Deputies.**

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

**103.4 Liability.**

The *code official* or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

#### **103.4.1 Legal defense.**

Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

#### **103.5 Fees.**

The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

## SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

#### **104.1 General.**

The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

#### **104.2 Inspections.**

The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. 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.

#### **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 a reasonable effort to locate the *owner*, owner's authorized agent 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.

#### **104.4 Identification.**

The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

#### **104.5 Notices and orders.**

The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

#### **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 for the period required for retention of public records.

## SECTION 105 APPROVAL

#### **105.1 Modifications.**

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

#### **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. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons the alternative was not *approved*.

#### **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 to require tests to be made as evidence of compliance at no expense to the jurisdiction.

##### **105.3.1 Test methods.**

Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

##### **105.3.2 Test reports.**

Reports of tests shall be retained by the *code official* for the period required for retention of public records.

#### **105.4 Used material and equipment.**

The use of used materials that 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 where necessary, placed in good and proper working condition and *approved* by the *code official*.

**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.

**105.6 Research reports.**

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

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.

**106.2 Notice of violation.**

The *code official* shall serve a notice of violation or order in accordance with Section 107.

**106.3 Prosecution of violation.**

Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a code violation punishable as provided in the City Code. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**106.4 Violation penalties.**

Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or city ordinance. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**106.5 Abatement of violation.**

The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 107  
NOTICES AND ORDERS

**107.1 Notice to person responsible.**

Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed

in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

#### **107.2 Form.**

Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

#### **107.3 Method of service.**

Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; and
3. A copy thereof shall be posted in a conspicuous place in or about the structure or property affected by such notice.

#### **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*.

#### **107.5 Penalties.**

Penalties for noncompliance with orders and notices shall be as set forth in Sections 106.3 and 106.4.

#### **107.6 Transfer of ownership.**

It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.



## 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.

#### **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.

#### **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.

#### **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 insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code or any building code adopted by the City, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

#### **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.

#### **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 *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
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, 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 human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated 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.

#### **108.2 Closing of vacant structures.**

If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* or *owner's* authorized agent to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

### **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 where such utility connection has been made without approval. The *code official* shall notify the City Clerk and, whenever possible, the *owner* or owner's authorized agent and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, owner's authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

### **108.3 Notice.**

Whenever the *code official* has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

### **108.4 Placarding.**

Upon failure of the *owner*, owner's authorized agent 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.

#### **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.

### **108.5 Prohibited occupancy.**

Any occupied structure condemned 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*, owner's authorized agent or person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

### **108.6 Abatement methods.**

The *owner*, owner's authorized agent, *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.

### **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.

## SECTION 109 EMERGENCY MEASURES

### **109.1 Imminent danger.**

When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This *Structure* Is Unsafe and Its *Occupancy* Has Been Prohibited by the *Code Official*." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

### **109.2 Temporary safeguards.**

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

### **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.

### **109.4 Emergency repairs.**

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

### **109.5 Costs of emergency repairs.**

Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.

### **109.6 Hearing.**

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

## SECTION 110 DEMOLITION

### **110.1 General.**

The *code official* shall order the *owner* or owner's authorized agent 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* or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

**110.2 Notices and orders.**

Notices and orders shall comply with Section 107.

**110.3 Failure to comply.**

If the *owner* of a *premises* or owner's authorized agent fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**110.4 Salvage materials.**

When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111  
MEANS OF APPEAL

**111.1 Application for appeal.**

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

**111.2 Notice of meeting.**

The Council shall meet upon notice from the Mayor, within 20 days of the filing of an appeal, or at stated periodic meetings.

**111.3 Open hearing.**

Hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of four Council members.

**111.3.1 Procedure.**

The Council shall adopt and make available to the public through the City Clerk procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**111.4 Decision.**

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

**111.4.1 Records and copies.**

The decision of the Council shall be recorded. Copies shall be furnished to the appellant and to the *code official*.

**111.4.2 Administration.**

The *code official* shall take immediate action in accordance with the decision of the Council.

**111.5 Court review.**

Any person, whether or not a previous party of the appeal, shall have the right to appeal any decision of the City Council to the District Court of Morrill County, Nebraska. Application for review shall be made in the manner and time required by law following the filing of the decision of the City Council with the City Clerk.

**111.6 Stays of enforcement.**

Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

SECTION 112  
STOP WORK ORDER

**112.1 Authority.**

Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

**112.2 Issuance.**

A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

**112.3 Emergencies.**

Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

**112.4 Failure to comply.**

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$100.00 or more than \$500.00.

# 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.

### **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.

### **201.3 Terms defined in other codes.**

Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

### **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.

### **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.”

## SECTION 202 GENERAL DEFINITIONS

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

**APPROVED.** Acceptable to 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 code official shall be the Chief of Police and/or the City Building Inspector, or any duly authorized representative of the Chief of Police. The official who is

charged with the administration and enforcement of this code, or any duly authorized representative.

**CONDEMN.** To adjudge unfit for *occupancy*.

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

**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.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

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

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

**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.*

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



1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

**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, rodents, 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.

**JUNK.** An accumulation of garbage, scrap lumber, wood, plastic, metal, old furniture, mattresses, appliances, building materials, equipment, inoperable motor vehicles or vehicle parts that are unsightly and/or promote infestation, that are new, old or discarded articles that are considered useless or of little value.

**LABELED.** Equipment, materials or products to which have 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*.

**NUISANCE.** For purposes of § 18-1720 of the Neb. Rev. Stat., the term nuisance shall include all property conditions that are prohibited by this Property Maintenance Code.

**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 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*.

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

**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.

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

**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.

# CHAPTER 3 GENERAL REQUIREMENTS

## SECTION 301 GENERAL

### **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*.

### **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* that are not in a sanitary and safe condition and that do not comply with the requirements of this code. *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.

### **301.3 Vacant structures and land.**

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.

## SECTION 302 EXTERIOR PROPERTY AREAS

### **302.1 Sanitation.**

*Exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* that such *occupant* occupies or controls in a clean and sanitary condition.

### **302.2 Grading and drainage.**

*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.

### **302.3 Sidewalks and driveways.**

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

### **302.4 Weeds.**

*Premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of 8" (eight inches). Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property. If the costs are not paid, a lien may be placed on the property by the City.

### **302.5 Rodent harborage.**

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 that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

### **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*.

### **302.7 Accessory structures.**

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

### **302.8 Junk.**

Except as provided for in other regulations, no junk shall be allowed to accumulate, kept, or stored on any premises. The code official shall comply with the notice provisions of this code concerning abatement and removal of junk that is accumulated on any premises.

### **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.

## SECTION 303 EXTERIOR STRUCTURE

### **303.1 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.

#### **303.1.1 Unsafe conditions.**

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

**303.2 Protective treatment.**

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. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

**303.3 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 not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

**303.4 Structural members.**

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

**303.5 Foundation walls.**

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.

**303.6 Exterior walls.**

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*.

**303.7 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.

**303.8 Decorative features.**

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.

**303.9 Overhang extensions.**

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. Where 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.

**303.10 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.

**303.11 Chimneys and towers.**

Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. 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.

**303.12 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.

**303.13 Window, skylight and door frames.**

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

**303.13.1 Glazing.**

Glazing materials shall be maintained free from cracks and holes.

**303.13.2 Openable windows.**

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

**303.14 Doors.**

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

**303.15 Basement hatchways.**

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

**303.16 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.

**303.17 Building security.**

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

**303.17.1 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 minimum lock throw of 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.

#### **303.17.2 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.

#### **303.17.3 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.

#### **303.18 Gates.**

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

## SECTION 304 INTERIOR STRUCTURE

#### **304.1 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 that they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.*

##### **304.1.1 Unsafe conditions.**

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;

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

**Exceptions:**

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

**304.2 Structural members.**

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

**304.3 Interior surfaces.**

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.

**304.4 Stairs and walking surfaces.**

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

**304.5 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.

**304.6 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.

SECTION 305  
COMPONENT SERVICEABILITY

**305.1 General.**

The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

**305.1.1 Unsafe conditions.**

Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
  - 1.1. Collapse of footing or foundation system;

- 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
  - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
  - 1.4. Inadequate soil as determined by a geotechnical investigation;
  - 1.5. Where the allowable bearing capacity of the soil is in doubt; or
  - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
    - 2.1. *Deterioration*;
    - 2.2. *Ultimate deformation*;
    - 2.3. Fractures;
    - 2.4. Fissures;
    - 2.5. Spalling;
    - 2.6. Exposed reinforcement; or
    - 2.7. *Detached*, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
    - 3.1. *Deterioration*;
    - 3.2. Corrosion;
    - 3.3. Elastic deformation;
    - 3.4. *Ultimate deformation*;
    - 3.5. Stress or strain cracks;
    - 3.6. Joint fatigue; or
    - 3.7. *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
    - 4.1. *Deterioration*;
    - 4.2. *Ultimate deformation*;

- 4.3. Fractures in masonry or mortar joints;
  - 4.4. Fissures in masonry or mortar joints;
  - 4.5. Spalling;
  - 4.6. Exposed reinforcement; or
  - 4.7. *Detached*, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
- 5.1. *Deterioration*;
  - 5.2. Elastic deformation;
  - 5.3. *Ultimate deformation*;
  - 5.4. Metal fatigue; or
  - 5.5. *Detached*, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
- 6.1. *Ultimate deformation*;
  - 6.2. *Deterioration*;
  - 6.3. Damage from insects, rodents and other vermin;
  - 6.4. Fire damage beyond charring;
  - 6.5. Significant splits and checks;
  - 6.6. Horizontal shear cracks;
  - 6.7. Vertical shear cracks;
  - 6.8. Inadequate support;
  - 6.9. *Detached*, dislodged or failing connections; or
  - 6.10. Excessive cutting and notching.

**Exceptions:**

- 1. Where substantiated otherwise by an *approved* method.
- 2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

## SECTION 306 HANDRAILS AND GUARDRAILS

### **306.1 General.**

Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

**Exception:** *Guards* shall not be required where exempted by the adopted building code.

## SECTION 307 RUBBISH AND GARBAGE

### **307.1 Accumulation of rubbish or garbage.**

*Exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

### **307.2 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.

#### **307.2.1 Rubbish storage facilities.**

The *owner* of every occupied *premises* shall use *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish* by depositing *rubbish* in the approved containers provided by the City of Bayard.

#### **307.2.2 Refrigerators.**

Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

### **307.3 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.

#### **307.3.1 Garbage facilities.**

The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder or disposal in each *dwelling unit*.

## SECTION 308 PEST ELIMINATION

### **308.1 Infestation.**

Structures shall be kept free from insect and rodent *infestation*. Structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be

injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

### **308.2 Owner.**

The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

### **308.3 Single occupant.**

The *occupant* of a one-family dwelling or of a single-*tenant* nonresidential structure shall be responsible for pest elimination on the *premises*.

### **308.4 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 pest elimination 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 pest elimination.

### **308.5 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 pest elimination.

## **309.0 Definitions.**

Unlicensed vehicles shall be any vehicle that does not maintain current license plate and tags as issued by the County Clerk.

Abandoned Vehicles shall constitute any vehicle left for more than 72 hours on any street that is unlicensed.

Salvage, junk or scrap vehicles shall be defined as any vehicle as partially disassembled, missing doors, windows, wheels and/or tires and other parts.

### **309.1 Prohibitions.**

In residential districts within the City of Bayard, Nebraska, no more than two (2) unlicensed vehicles, which would otherwise be operational, shall be stored outside of buildings on residential properties. No salvage, junk or inoperable vehicles may be stored outside of buildings on residential properties except for vehicles that are undergoing temporary repairs.

For purposes of this ordinance, temporary repairs shall be repairs that shall be completed within six (6) months without extensions.

No scrap, junk or salvage vehicles, as defined herein, shall be maintained on any residential property for more than thirty (30) days.

Vehicles in Central Business and General Commercial Zoning districts may be stored outside of buildings. Motor vehicles stored outside in these districts must be parked or arranged on property in an orderly state and in a manner that allows fire vehicles and safety personnel

access to the property without danger to life or equipment. Vehicles must be stored and maintained so the area around vehicles remains in compliance with the provisions of the Property Maintenance Code and City Code concerning the height of weeds and grasses.

No scrap or junk vehicles may be stored in a Central Business and General Commercial Zoning district so as to constitute a junkyard where junk as defined in the City Code and Property Maintenance Code. Vehicles that are partially salvaged or missing components such as doors, hoods, windshields or unmaintained wheels and/or tires shall be considered junk vehicles and shall not be allowed to remain on premises in Central Business and General Commercial Zoning districts for more than six (6) months without extensions.

These provisions shall not apply to any vehicle being repaired or restored as part of a commercial transaction, so long as there is on-going progress concerning the restoration of the vehicle.

# CHAPTER 4

## COSTS AND PENALTIES

### SECTION 401 GENERAL

#### **401.1 Levy of Costs.**

Pursuant to § 18-1722 Neb. Rev. Stat., the City is authorized to levy the cost of any remedial efforts, demolition, and/or repairs as described in the Property Maintenance Code, as a special assessment against the lot or real estate upon which the violating building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

#### **401.2 Costs.**

In addition to levying a special assessment, the City may collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

#### **401.3 Penalties.**

Any violation of the Property Maintenance Code shall be considered a code violation of the City of Bayard and shall be punishable by fine, not to exceed \$500.00. The Property Maintenance Code contains more specific fines in individual sections. Penalties for violations of the Property Maintenance Code, with reference to those sections shall take precedence over this general violation section.



# APPENDIX A

## REFERENCED STANDARDS

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

**ASME** American Society of Mechanical Engineers  
 Three Park Avenue  
 New York, NY 10016-5990

Standard reference number	Title
ASME A17.1/CSA B44	2013 Safety Code for Elevators and Escalators

**ASTM** ASTM International  
 100 Barr Harbor Drive  
 West Conshohocken, PA 19428-2959

Standard reference number	Title
F 1346—91 (2010)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs

**ICC** International Code Council  
 500 New Jersey Avenue, NW  
 6th Floor  
 Washington, DC 20001

Standard reference number	Title
IBC—15	International Building Code <sup>®</sup>
IEBC—15	International Existing Building Code <sup>®</sup>
IFC—15	International Fire Code <sup>®</sup>
IFGC—15	International Fuel Gas Code <sup>®</sup>
IMC—15	International Mechanical Code <sup>®</sup>
IPC—15	International Plumbing Code <sup>®</sup>
IRC—15	International Residential Code <sup>®</sup>
IZC—15	International Zoning Code <sup>®</sup>

**NFPA** National Fire Protection Association  
 1 Batterymarch Park  
 Quincy, MA 02269

Standard reference	Title
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number

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25—14	Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems
70—14	National Electrical Code

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