

CODIFIED ORDINANCES OF CLAYTON

PART THIRTEEN - BUILDING CODE

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**CHAPTER 1301
Purpose and Title**

1301.01 Purpose.	1301.02 Title.
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CROSS REFERENCES

Construction and interpretation generally - see ADM. Ch. 101

1301.01 PURPOSE.

The purpose of this exterior property maintenance code is to protect the public health, safety, morals and general welfare as it pertains to premises and buildings used for residential, commercial, and industrial purposes. This protection is hereinafter provided by:

- (a) Establishing minimum standards for maintaining residential, commercial and industrial environmental quality to preserve and achieve the presentable appearance of existing structures and premises; avoiding blighting effects of the substandard maintenance of structures and premises and its negative impact on the value of surrounding properties; and eliminating hazardous conditions;
 - (b) Fixing the responsibilities of owners, operators and occupants of structures and their premises; and
 - (c) Providing for administration, enforcement and penalties.
- (Ord. O-07-98-27A. Passed 9-3-98.)

1301.02 TITLE.

This Code, codified as Title One of Part Thirteen - Building Code, shall be known as "The Exterior Property Maintenance Code" and is herein referred to as above or as the "Exterior Property Maintenance Code" or "This Code."
(Ord. O-07-98-27A. Passed 9-3-98.)

CHAPTER 1305
Definitions

1305.01 Construction of language.

1305.02 Definitions.

CROSS REFERENCES
General definitions - see ADM. 101.02

1305.01 CONSTRUCTION OF LANGUAGE.

For the purpose of this Exterior Property Maintenance Code certain terms or words shall be interpreted as follows:

- (a) Words used in the singular shall include the plural, and the plural the singular;
- (b) Words used in the present tense shall include the future tense;
- (c) Words in the masculine gender shall include the feminine and neuter;
- (d) The word "shall" is mandatory and not discretionary;
- (e) The word "may" is permissive;
- (f) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"
- (g) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; and
- (h) The word "dwelling" includes the word "residence."
(Ord. O-07-98-27A. Passed 9-3-98.)

1305.02 DEFINITIONS.

All words used in this Exterior Property Maintenance Code shall have their customary meanings, except those specifically defined in this Section.

BUILDING CODE: The most current edition of the State of Ohio building code, for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings and structures.

DRIVEWAY APPROACH: The area between the roadway of a public street and private property, intended to provide access for vehicles from the roadway of a public street to private property.

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

JUNK OR INOPERABLE VEHICLE: A vehicle, including but not limited to cars, trucks, busses, trailers, and boats, shall be deemed a junk or inoperable vehicle whenever any of the following occur:

- (a) The vehicle is without a valid current registration and/or license plate;
- (b) The vehicle is apparently inoperable;

- (c) The vehicle is without fully inflated tires and/or has any type of support under it;
- (d) The vehicle has a substantially damaged or missing window, windshield, door, motor, transmission, or other similar major part.

PREMISES: A lot, plot, or parcel of land including the buildings or structures thereon.

PUBLIC NUISANCE: includes the following:

- (a) The physical condition, or use of any premises regarded as a public nuisance at common law; or
- (b) Any physical condition, use, or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to junk, inoperable or unlicensed vehicles, abandoned wells, shafts, basements, excavations, abandoned refrigerators, and unsafe fences or structures, or;
- (c) Any premises which have improperly working drainage facilities; or
- (d) Any premises designated as unsafe for human habitation or use, or
- (e) Any premises, which is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured as to endanger life, limb or property; or
- (f) Any premises which is unsanitary, or which is littered with rubbish or garbage, or
- (g) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; open, vacant, or abandoned; damaged by fire to the extent as not to provide shelter in danger of collapse or failure, and is dangerous to anyone on or near the premises.

RUBBISH: Rubbish is both combustible and non-combustible waste materials, including car parts, motors, and abandoned appliances. The term shall also include rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, and other similar materials, as well as the residue from the burning of wood, coal, and other combustible materials.

STRUCTURE: Anything constructed or erected which requires location on the ground or attachment to something having location on the ground.

(Ord. O-07-98-27A. Passed 9-3-98; Ord. O-10-10-12. Passed 11-4-10.)

CHAPTER 1309
Administration and Enforcement

<p>1309.01 Application of Exterior Property Maintenance Code.</p> <p>1309.02 Compliance required.</p> <p>1309.03 Conflict of laws.</p> <p>1309.04 Existing remedies.</p> <p>1309.05 Separability.</p> <p>1309.06 Saving clause.</p> <p>1309.07 Enforcement officials.</p> <p>1309.08 Inspections.</p> <p>1309.09 Notice of violation.</p> <p>1309.10 Exterior Property Maintenance Code appeals.</p>	<p>1309.11 Citation tags.</p> <p>1309.12 Prosecution.</p> <p>1309.13 Abatement of public nuisance by City and cost recovery.</p> <p>1309.14 Rulemaking authority.</p> <p>1309.15 Transfer of ownership.</p> <p>1309.16 Abandonment of construction project.</p> <p>1309.99 Violation and penalties.</p>
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CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26 et seq.
Appeals from administrative agencies - see Ohio R.C. Ch. 2506

1309.01 APPLICATION OF EXTERIOR PROPERTY MAINTENANCE CODE.

The provisions of the Exterior Property Maintenance Code shall apply to all premises and structures used for human habitation, commercial purposes, or industrial purposes which are now or may become in the future substandard with respect to structure, maintenance, proper drainage and sanitary conditions, or other similar conditions which otherwise constitute a public nuisance. The existence of such conditions, factors or characteristics adversely affects public health, safety, morals and general welfare and leads to the continuation, extension and aggravation of blight and its attendant negative effect on surrounding property values. Therefore, adequate protection of the public requires the establishment and enforcement of these property maintenance standards. (Ord. O-07-98-27A. Passed 9-3-98.)

1309.02 COMPLIANCE REQUIRED.

Every portion of a building or premises used or intended to be used for residential, commercial, or industrial purposes, shall comply with the provisions of this Exterior Property Maintenance Code, irrespective of when such building has been constructed, altered or repaired, or premises occupied, except as hereinafter provided. (Ord. O-07-98-27A. Passed 9-3-98.)

1309.03 CONFLICT OF LAWS.

In any case where a provision of this Exterior Property Maintenance Code is found to be in conflict with a provision of any zoning, building, fire, safety or health regulation or other regulation, the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail.
(Ord. O-07-98-27A. Passed 9-3-98.)

1309.04 EXISTING REMEDIES.

Nothing in this Exterior Property Maintenance Code shall be deemed to abolish, impair, or prevent the execution of any existing remedies related to the abatement of a public nuisance.
(Ord. O-07-98-27A. Passed 9-3-98.)

1309.05 SEPARABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this Exterior Property Maintenance Code is declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Exterior Property Maintenance Code, which shall continue in full force and effect, and to this end the provisions of this Exterior Property Maintenance Code are hereby declared to be severable.
(Ord. O-07-98-27A. Passed 9-3-98.)

1309.06 SAVING CLAUSE.

This Exterior Property Maintenance Code shall not affect violations of any other resolution, ordinance, code or regulation existing prior to the effective date of this Exterior Property Maintenance Code, and any violation of such shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.
(Ord. O-07-98-27A. Passed 9-3-98.)

1309.07 ENFORCEMENT OFFICIALS.

(a) Enforcement Officers. The City Administrator shall assign the duties of administering and enforcing this Code to the Enforcement Officer. The Enforcement Officer may call upon any department for whatever assistance may be necessary to abate a violation of this Code.

(b) Liability. No officer, agent or employee of the City shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.
(Ord. O-07-98-27A. Passed 9-3-98.)

1309.08 INSPECTIONS.

The Enforcement Officer is authorized to make inspections of building exteriors and Premises for purposes of enforcing the provisions of this Exterior Property Maintenance Code. For the purpose of making such inspections, and upon showing appropriate identification, the Enforcement Officer is hereby authorized to examine and survey at any reasonable hour all residential, commercial, industrial and other premises.
(Ord. O-07-98-27A. Passed 9-3-98.)

1309.09 NOTICE OF VIOLATION.

(a) Content. Whenever the Enforcement Officer determines that there is a violation of the provisions of this Code, he may give notice of such violation to the person or persons responsible therefore and order compliance, as hereinafter provided. Such notice and order shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why it is being issued;
- (4) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the property into compliance with the provisions of this code; and
- (5) State the right of the violator to file an appeal of the notice with the Maintenance Code Appeals Board within ten (10) days of receipt of the notice.

(b) Service: A notice of violation shall be deemed to be properly served if one (1) or more of the following methods are used:

- (1) By personal delivery to the owner or occupant of the premises or by leaving the notice at the premises with a person of suitable age and discretion; or
- (2) By certified mail deposited in the United States Post Office addressed to the person or persons responsible at his/their last known address, with return receipt requested. If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Enforcement Officer. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or
- (3) By posting a copy of the notice form in a conspicuous place on the premises found in violation and publishing a legal notice in a newspaper of general circulation in the City. The legal notice shall identify the owners of the property, the last address, if known, of the owners, the parcel identification, the location and nature of the violation.
(Ord. O-07-98-27A. Passed 9-3-98.)
- (4) With respect to Section 1313.05 of this Code, by causing a placard to be conspicuously placed on the property with the information stated thereon as required by Section 1313.05(c).
(Ord. 0-04-12-02. Passed 4-19-12.)

1309.10 EXTERIOR PROPERTY MAINTENANCE CODE APPEALS.

(a) Appeals Board. To implement the purposes and requirements of this Exterior Property Maintenance Code, there is hereby created the Exterior Property Maintenance Code Appeals Board, hereinafter referred to as the Board. For the purposes of this Code, the Board of Zoning Appeals shall function as the Exterior Property Maintenance Code Appeals Board.

- (1) Procedure. Said Board may adopt rules of procedure not inconsistent with this Code. No member of the Board shall take part in any hearing or determination in which he or she has a personal or financial interest. Three (3) members of the Board in attendance at any meeting shall constitute a quorum.

- (2) Authority. The Board shall hear all appeals relative to the enforcement of this Code, and by a concurring vote of the majority of its members may reverse or affirm, wholly or partly, or may modify the decision appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring votes shall be deemed a confirmation of the decision of the inspector.

(b) Hearings. Any person affected by any notice of violation which has been issued in connection with the enforcement of any provision of this Exterior Property Maintenance Code, may request and shall be granted a hearing on the matter before the Exterior Property Maintenance Code Appeals Board provided that such person shall file in the office of the Enforcement Officer an appeal on forms provided by the City. The appeal shall be filed within ten (10) days after the date of the notice and order, revocation or denial of permit. Upon receipt of such a petition, the Appeals Board shall set a time and place for hearing before the Appeals Board and shall give the petitioner written notice thereof by first class mail postmarked at least ten (10) days prior to such hearing. The hearing shall be held no less than ten (10) days and no more than thirty (30) days from the date the petition was filed. At such hearing, the petitioner shall be given an opportunity to be heard and to show cause why any item appearing on such notice and order should be modified, or withdrawn. The failure of the petitioner or his representative to appear and state his case at such hearing shall have the same effect as if no petition were filed.

(c) Findings. Prior to sustaining any violation notice and compliance order, the Appeals Board shall make the following findings:

- (1) The violator was served with a Notice of Violation and/or Citation Tag as provided for in Sections 1309.09 and 1309.11.
- (2) The Citation Tag and/or Notice of Violation that was served stated the specific nature of the violation; corrective action needed to be taken to abate the violation; and a specific time period for abatement of the violation.
- (3) Within the time period stipulated in the Citation Tag and/or Notice of Violation, the violator failed to comply with the Notice of Violation by not abating the violation, and/or by not bringing the use into compliance with the Exterior Property Maintenance Code.
- (4) Upon expiration of the date indicated for compliance in the Notice of Violation, the property was being maintained in violation of specific provisions of the Exterior Property Maintenance Code and/or conditions imposed by the Appeals Board as a prerequisite to the modification of a previous compliance order.

(d) Authority of Appeals Board. Within thirty (30) days of the close of the public hearing, the Appeals Board shall render a decision sustaining, modifying, or withdrawing any item appearing on the notice and order. The petitioner shall be notified in writing of such action. (Ord. O-07-98-27A. Passed 9-3-98.)

1309.11 CITATION TAGS.

The Enforcement Officer is authorized and directed to provide citation tags which shall be used for the purposes of giving due notice and summons to the person or persons responsible for violations of this Exterior Property Maintenance Code.

- (a) Contents: Such citation tags shall be put in writing on an appropriate form, state the nature of the violation, refer to the section or sections of this resolution violated, and state the appropriate assessment or penalty therefore.
- (b) Payment of Assessment: Such person or persons, when a citation tag as herein provided is served to him, shall appear at the place or places designated upon such tag and shall pay the assessment for the violation noted on the citation. Upon payment of the assessment as provided within the time limit provided herein, no further action will be taken to prosecute the violation noted on the citation, provided remedial action, if necessary, is taken.
- (c) Notice and Future Violation: The citation tag, as herein provided, shall be sufficient notice, summons, and legal service thereof for the purpose specified thereon; provided, however, that the use of such tags shall not prohibit the issuance of either additional citation tags or a legal notice of violation as provided herein, in the event such violation is continued or repeated.
- (d) Establishment of Fee Schedule: Prior to the issuance of any citation tag, the City Council shall adopt by resolution a citation tag fee schedule assessment. From time to time and upon its own motion, Council may modify the citation tag fee schedule assessment.
- (e) Penalty Assessment: When a violation citation tag has been issued pursuant to this section, an amount established by the City Council is hereby assessed on the violator. If the assessment is paid within the seventy-two (72) hour period immediately following the issuance of the citation tag, all assessments are reduced by fifty percent (50%) subject to additional citations and assessment if the violation is not terminated within twenty-four (24) hours. Failure to pay the assessment within a period of thirty (30) days after the date of service of the citation tag shall constitute a minor misdemeanor, punishable as provided in Section 1309.99. Assessments may also be attached to the property taxes for the property in question. (Ord. O-07-98-27A. Passed 9-3-98.)

1309.12 PROSECUTION.

In case any violation order is not promptly complied with, the Enforcement Officer may request the Law Director to institute an appropriate action or proceeding at law to exact the penalty provided in Section 1309.99 of this Code, and in addition thereto, may ask the City Attorney to proceed at law or in equity against the person responsible for the violation for the purpose of ordering him/her to abate such nuisance.
(Ord. O-07-98-27A. Passed 9-3-98.)

1309.13 ABATEMENT OF PUBLIC NUISANCE BY CITY AND COST RECOVERY.

(a) Public Nuisance and Order of Remediation. When the Code Enforcement Officer determines that a premises within the City constitutes a public nuisance as defined in Section 1305.02, the Code Enforcement Officer shall give notice to the owner, occupant or person having charge of the premises upon which the violation(s) occurs to cease such violation(s). Such notice shall be in writing and shall be served upon the owner, occupant or person having charge of the premises either personally or by certified mail, RRR addressed to such person's last known place of residence. In the event the certified mail envelope is returned, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed with the Code Enforcement Officer. The notice shall describe with reasonable certainty the premises deemed to be a public nuisance, specify the conditions constituting the public nuisance and the remediation necessary to abate the public nuisance, specify that the owner, occupant or person having charge of the premises has fourteen (14) days from the date the notice was issued to take all necessary actions to fully and completely abate the public nuisance, specify the actions to be taken by the City pursuant to subsection (c) if the public nuisance is not fully and completely abated within the compliance period, and advise of the right of appeal pursuant to subsection (d) hereof as well as the penalties which may be imposed for non-compliance pursuant to subsection (e) hereof.

(b) Compliance with Order of Remediation Required. No person served with the notice as provided in subsection (a) hereof, shall fail to cause such violation(s) to cease within fourteen (14) days from the date the notice was issued. For good cause shown, the Code Enforcement Officer may extend the fourteen (14) day compliance period once for a period not to exceed ten (10) days. Failure to fully and completely abate the public nuisance(s) within fourteen (14) days from the date the notice was issued or any extension thereof granted is deemed a violation of this subsection (b) thereby subjecting the offender to the penalties in subsection (d) hereof.

(c) Authority of City to Enter and Abate Nuisance. If the person served with notice, as provided in subsection (a) hereof, fails to cause such violation(s) to fully and completely cease within the compliance period stated in subsection (b) hereof, or any extension thereof granted, then the City and/or its authorized agent, may enter upon the premises and take all actions necessary to fully and completely abate the public nuisance, including but not limited to, removal and disposal of junk, inoperable or unlicensed vehicle(s), rubbish or garbage. The City may, but is not required, to store any items removed for a period of thirty (30) days. If any items are so stored, the Code Enforcement Officer shall serve written notice upon the owner, occupant, or person having charge of the premises of such storage and such notice shall include reasonable identification of the items stored and the date on which said items will be disposed or destroyed. Stored items may be retrieved by the owner, occupant, or person having charge of the premises within the above referenced thirty (30) day period. The owner, occupant, or person having charge of the premises shall be required to pay for all costs associated with storage in the manner described below.

- (1) The owner, occupant, or person having charge of the premises shall be required to pay for the entire cost of abatement, including but not limited to, costs of removal and disposal in the following manner:
- (2) The owner, occupant or person having charge of the premises shall be billed directly by certified mail, RRR. In the event the certified mail envelope is returned, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed with the Code Enforcement Officer.

- (3) If the billed costs are not recovered within thirty (30) days of receipt of the mailing described herein, then the City may collect the costs in accordance with the Ohio Revised Code. The City may also direct the Law Director to institute legal action to collect the amounts owed.

(d) Right of Appeal. The owner, occupant, or person having charge of the premises may appeal a notice of violation issued hereunder by tiling a timely appeal pursuant to Section 1309.10 and following the procedures as provided therein.

(e) Penalty.

- (1) Except as otherwise provided in this subsection, whoever violates subsection (b) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted or pleaded guilty to violation of subsection (b), whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more violations of subsection (b), whoever violates subsection (b) hereof is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues beyond the fourteen (14) day compliance period or any extension thereof granted.
- (2) The procedures set forth herein are not exclusive and are in addition to the procedures for abatement of a public nuisance conferred upon the City by other lawful authority, including, but not limited to, the Ohio Revised Code. (Ord. 0-02-16-06. Passed 3-3-16.)

1309.14 RULEMAKING AUTHORITY.

The Enforcement Officer shall have power as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate rules and regulations to implement the provisions of this Code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions; but such rules shall not have the effect of waiving working stresses or fire protection requirements specifically provided in this Code or violating approved practice involving public safety. (Ord. O-07-98-27A. Passed 9-3-98.)

1309.15 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any building or structure who has received a notice of violation to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice of violation issued by the Enforcement Officer and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation. (Ord. O-07-98-27A. Passed 9-3-98.)

1309.16 ABANDONMENT OF CONSTRUCTION PROJECT.

Any building or structure for which a building permit has been issued, and except for circumstances beyond the property owner's control (e.g., labor strikes, inclement weather, etc.), all construction work (including excavations) shall be diligently pursued to completion. Any construction project upon which no substantial work has been undertaken for a period of six (6) months, shall be deemed abandoned. Upon any construction project being deemed abandoned, all buildings or structures not completed to the degree such buildings or structures have been indicated on the plans submitted in support of a building permit, and all building materials and construction equipment shall be removed from the site.

(Ord. O-07-98-27A. Passed 9-3-98.)

1309.99 VIOLATION AND PENALTIES.

(a) No person shall violate any provision or fail to conform to any of the requirements of this Exterior Property Maintenance Code or fail to comply with any order made thereunder.

(b) Whoever violates any section of this Code shall be guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(c) The application of the penalty provided in subsection (b) hereof shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. O-07-98-27A. Passed 9-3-98.)

CHAPTER 1313
Residential Exterior Property Maintenance Standards

<p>1313.01 Application of maintenance standards.</p> <p>1313.02 Structural soundness and maintenance of dwellings.</p> <p>1313.03 Paint and coating materials.</p> <p>1313.04 Exterior property and structure exteriors.</p> <p>1313.05 Maximum grass, weed, vegetation height; enforcement procedure; grass watch list.</p>	<p>1313.06 Stairways.</p> <p>1313.07 Accessory structures.</p> <p>1313.08 Placement of receptacles.</p> <p>1313.09 Abatement of bulk items by City.</p> <p>1313.10 Placement of portable toilets in residential areas.</p> <p>1313.99 Penalty.</p>
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CROSS REFERENCES

Junk vehicles - see TRAF. 303.10
Littering and deposit of refuse - see GEN. OFF. 521.08
Nuisances - see GEN. OFF. Ch. 531

1313.01 APPLICATION OF MAINTENANCE STANDARDS.

The following standards are applicable to all residential structures, dwelling units, residential portions of mixed use structures and all dwelling units located in commercial buildings. (Ord. 0-07-98-27A. Passed 9-3-98.)

1313.02 STRUCTURAL SOUNDNESS AND MAINTENANCE OF DWELLINGS.

Every foundation, exterior wall, and roof of every dwelling shall be so constructed and maintained and be kept in good repair and in safe condition so as to make all occupied rooms and other interior areas weather-tight, water-tight, rodent proof and so as to be fit for human habitation and so as to not adversely affect the neighborhood in which they are located. Good repair, maintenance and safe condition shall include but is not limited to the following:

- (a) Foundations. Foundations shall support the building at all points and shall be free of all holes and cracks which admit rodents, water or dampness to the interior of the building or lessen the capability of the foundation to support the building.
- (b) Exterior Walls and Surfaces. Exterior walls and other exterior surface materials shall be free of holes, cracks, loose or rotting boards and timbers or any other condition which might admit rodents, rain or dampness to the interior of the dwelling. (Ord. 0-07-98-27A. Passed 9-3-98.)
- (c) Windows. Windows shall be fully supplied with window glass or an approved substitute which is glazed and is without open cracks or holes, shall have sashes in good condition which fit within frames, be capable of being easily opened and held in position by hardware, and maintained so as to exclude adverse weather elements from entering the structure. Windows may be temporarily secured if in need of repair, but the windows may not be secured with boards. Any repairs are to be completed within 14 days from the date the window is temporarily secured. (Ord. 0-09-09-13. Passed 10-1-09.)

- (d) Exterior Doors. Doors shall be maintained so as to be structurally sound, fit within frames so as to be weatherproof, windproof, and water-proof and be provided with door hinges and door latches which are in good working condition. (Ord. 0-07-98-27A. Passed 9-3-98.)
- (e) Roof. Roof members, covering and flashing shall be structurally sound and tight so as to prevent the entrance of moisture and be maintained by renewal, repair, waterproofing or other suitable means. Roof drainage shall be adequate to prevent rain water from causing dampness in the interior portion of the building. Roofs may be temporarily secured if in need of repair, but the roof may not be covered with a tarp for more than 14 days. An application may be filed with the City for an extension of this 14 day period in successive periods of 30 days each. Said application shall be accompanied by written evidence that the repair work is under contract and written evidence of a completion date therefore. (Ord. 0-09-09-13. Passed 10-1-09.)
- (f) Gutters. Rain gutters, downspouts, leaders or other means of water diversion shall be provided to collect/conduct and discharge all water from the roof and maintained so as not to leak or cause dampness in the walls, ceiling, or basements or adversely affect adjacent properties.
- (g) Chimneys. Chimneys shall be free of cracks, holes or missing portions and maintained in sound condition.
- (h) Porch. Every porch shall be so constructed and maintained so as to be free of missing, defective, rotting or deteriorated foundations, supports, floors, other members, and steps thereto, so as to be safe to use and kept in sound condition and in good repair.
- (i) Structural Member. Any structural member of a structure which has become deteriorated or damaged to the extent that it does not serve the purpose as originally intended shall be renewed, restored, repaired, or replaced as is necessary to serve the purpose as originally intended.
- (j) Exterior Surfaces. Except for materials that have been designed or manufactured to remain untreated, all exterior wood, composition or metal surfaces shall be protected from the elements by paint or other protective covering. Surfaces shall be maintained so as to be kept clean and free of flaking, loose or peeling paint or covering.
- (k) Basement. Basement or cellar hatchways shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage into the dwelling.
- (l) Decorative Features. All cornices, entablatures, bell 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. (Ord. 0-07-98-27A. Passed 9-3-98.)

1313.03 PAINT AND COATING MATERIALS.

All paint and other coating materials shall be free of any lead. These materials shall also be free of dangerous substances banned from general use by authorized federal, state, county, or local regulatory agencies for health and safety reasons. (Ord. 0-07-98-27A. Passed 9-3-98.)

1313.04 EXTERIOR PROPERTY AND STRUCTURE EXTERIORS.

All buildings and the exterior of all premises shall be properly maintained to achieve a presentable appearance and to avoid blighting effects and hazardous conditions.

- (a) Exterior Surface. The exterior open space around each dwelling shall be maintained or so improved so as to provide for:
 - (1) The immediate diversion of water away from buildings and proper drainage of the lot;

- (2) Grass, plantings or other suitable ground cover to prevent soil erosion which is or may become detrimental to the structures, lot use or adjacent lots and structures;
 - (3) Yard-walks, parking areas, and driveways of a concrete, asphalt, pavers or similar surface which are of sound construction and properly maintained; and
 - (4) Exterior steps which are of sound construction and properly maintained free of hazardous conditions.
- (b) Maintenance. The exterior of all premises and every structure thereon including but not limited to, walls, roofs, cornices, chimneys, drains, towers, porches, landings, fire escapes, stairs, signs, windows, doors, awnings, and all surfaces thereof, shall be maintained so as to avoid any blighting effects on neighboring properties and shall be painted or protected where necessary for the purpose of preservation. All canopies, signs, awnings, exterior stairways, fire escapes, standpipes, exhaust ducts, porches, balconies, and similar overhanging extensions, where exposed to public view, shall be maintained in good condition and shall not show evidence of ripping, tearing, or deterioration.
- (c) Fences and Walls. All fences, retaining walls, or similar structures shall be anchored firmly in the ground, shall be constructed in a workmanlike manner and maintained in that same manner so that such approved fences, retaining walls, or similar structures shall always be in the state of good structural repair. If any fence, retaining wall, or similar structure is found not to be in the state of good structural repair, it shall be removed, replaced, or repaired as required. Except when constructed of materials that have been designed or manufactured to remain untreated, all fences shall be treated periodically with paint or chemicals so as to retard deterioration.
- (d) Yards. All yards, courts, porches, patios, driveways and lots shall be kept free of overgrown grasses, debris and other materials or appliances which may cause a fire, health, safety hazard, or general unsightliness.
- (e) Hazards. Hazards and unsanitary conditions shall be eliminated.
- (f) Occupancy. No temporary buildings, trailers, recreational vehicles, tents, or garages shall be used temporarily or permanently as a residence in the course of construction.
- (g) Storage. Except as provided for in other regulations of the City, all outdoor storage of any kind shall be prohibited.
- (h) Drainage. All portions of all premises shall be so graded that there is no pooling of water or recurrent entrance of water into any part of any building except when such pooling or retention of water is part of a plan approved by the Municipal Engineer or his designate. All condensate and waste cooling water shall be appropriately discharged into an approved drainage system.
- (i) Drainage Swales. Swales are to be maintained by the owners of the parcels on which they are located, and at no time will anyone plant shrubs and/or trees, or discharge, empty, or place any material, fill or waste into any swale so as to divert or impede drainage flow. Small swales can be mowed as part of the yard. Larger swales in meadow situations should be mowed less frequently in order to allow grasses to grow taller to retard runoff and prevent erosion. Swales in woodland areas should be left in their natural condition leaving understory growth to retard runoff and prevent erosion.
- (j) Junk, Inoperable or Unlicensed Vehicle. No junk, inoperable, or unlicensed vehicle shall be located on any residential property, except when stored within a completely enclosed building. (Ord. O-07-98-27A. Passed 9-3-98.)

1313.05 MAXIMUM GRASS, WEED, VEGETATION HEIGHT; ENFORCEMENT PROCEDURE; GRASS WATCH LIST.

(a) Vegetation Cutting Required. No owner, operator, responsible party, or occupant of any parcel of land located within the City shall maintain or permit to be maintained thereon, grass, weeds, or rank vegetation in excess of eight (8) inches. All noxious weeds are prohibited.

(b) Maintenance of Plantings. All plant materials, especially trees and shrubs, afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material shall be removed or appropriately treated. All sound plant materials, especially trees and shrubs, shall be properly maintained and trimmed and not evidence signs of neglect or general unsightliness.

(c) Authority of City Manager. At least once each year the City Manager shall cause a notice to be published in a newspaper of general circulation in the City containing a summary of the requirements of this Section 1313.05. The publication of said notice is deemed and declared to be adequate and sufficient notice to all persons affected by the provisions of this Chapter.

The City Manager, or his designee, upon notice of the existence of undesirable grass, vegetation or weeds in violation of the requirements herein, shall send a written notice of the violation to the owner, operator, responsible party, or occupant of the property directing that the grass, weeds or other undesirable vegetation be cut or destroyed within five (5) days from the issuance of the notice ("Five Day Notice"). The Five Day Notice shall contain at least the following information and no person shall fail to comply with such notice:

- (1) The date the notice and order is issued and a description of the subject real estate;
- (2) That it is a notice to cut grass, weeds and/or vegetation, issued pursuant to Section 1313.05 of the Codified Ordinances of the City;
- (3) That the notice constitutes an order to remove the grass, weeds and/or vegetation within five (5) days of the date of issuance of the notice;
- (4) A statement that the failure to comply with the order will result in the City removing the grass, weeds and/or vegetation and the property owner will be charged two hundred dollars (\$200.00) per acre or part thereof plus a ten percent (10%) administration fee; A statement that if the fee is not paid when due, a lien will be placed on the property for the amount due;
- (5) A statement that violation of the provisions of Section 1313.05 may result in a penalty fine of one hundred dollars (\$100.00) for each offense for the first four offenses in addition to other costs of the City; and beginning with the fifth offense, the penalty will increase to two hundred dollars (\$200.00) per offense in addition to other costs of the City;
- (6) A statement that there are penalties for removing the placard before bringing the property into compliance;
- (7) A statement that an appeal may be filed with the Exterior Property Maintenance Code Appeals Board within ten (10) days after the date of the notice and order.
- (8) Contact information of the appropriate City Department.

The Five Day Notice shall be either (1) hand delivered to the property owner, operator, responsible party, or occupant; or (2) the notice shall be placed upon a placard and the placard conspicuously placed on the subject property. Such placard shall remain on the property until the property is brought into compliance. Removal of the placard before compliance shall constitute an offense punishable under Section 1313.05(h). Failure of service of the notice shall not prevent the cutting of the undesirable grass, vegetation or weeds and the billing for the cost thereof as hereinafter provided.

(d) Failure to Comply. Whenever an owner, operator, responsible party, or occupant fails to comply with the notice issued hereunder within five (5) days, the City Manager, or his designee, shall cause the undesirable grass, vegetation, or weeds to be cut and destroyed and the City Manager may employ such labor and equipment necessary to perform the tasks, together with any cleanup work required.

(e) Statement of Costs. When the City Manager causes undesirable grass, vegetation or weeds to be cut and removed as described herein, a statement of cost thereof shall be mailed to the property owner, operator, responsible party and/or occupant of such land by certified mail, return receipt requested. If the certified mail is returned to the City undelivered, then the statement of cost will be sent to the property owner, operator, responsible party and/or occupant by either regular U.S. mail delivery or hand delivery. The cost to cut and remove undesirable grass, vegetation or weeds is two hundred dollars (\$200.00) per acre or part thereof plus a ten percent (10%) fee for administration.

(f) Cost Payment. The property owner, operator, responsible party and/or occupant of such land shall pay such fees as are charged in accordance with this Section 1313.05 to the City within fifteen (15) days after receipt of the statement of costs. If the fee is not paid when due, the City shall certify to the County Auditor the proceedings taken under this Section 1313.05, together with a statement of the charges for services and a legal description of the premises. If the grass, vegetation, or weeds in question are located on common area properties and under the custody, care or control of a homeowner association or similar such association, then the City may prorate the cost and assess to the homeowners. Such amounts shall be entered upon the taxes and returned to the City General Fund as provided by Ohio Revised Code 731.54.

(g) Grass Watch List. When a property has been issued two (2) Five Day Notices as set forth in division (c) above, the property will be placed on a Grass Watch List which shall be enforced as follows:

- (1) Upon issuance of the second Five Day Notice, a separate final notice will also be issued to the property owner, operator, responsible party, or occupant notifying of the placement of the property on the Grass Watch List ("Watch List Notice"). This Watch List Notice may be served by delivering it personally to the owner, operator, responsible party, or occupant or by posting said Notice in a conspicuous place on the real estate, building, or structure thereon.
- (2) When a property is placed on the Grass Watch List, the City will cut the grass, weeds or rank vegetation thereon each time the same reaches the maximum permitted height of eight (8) inches, for the duration of the grass cutting season. Any and all fees for same shall be assessed and collected as set forth in the provisions herein. A property may be removed from the Grass Watch List upon payment of any and all outstanding cutting fees for that season.

(h) Penalty. Whoever violates any of the provisions of this Section 1313.05 shall be fined one hundred dollars (\$100.00) for each offense for the first four offenses in addition to any other costs incurred by the City. Beginning with the fifth offense, the penalty shall be two hundred dollars (\$200.00) for each offense in addition to any other costs incurred by the City. Each day that the undesirable grass, vegetation, or weeds are permitted to continue to grow after the specified time limit shall constitute a separate offense.

(i) Appeal.

- (1) A person receiving a notice issued hereunder, may appeal same by filing an appeal as set forth in Section 1309.10 of the Clayton Codified Ordinances.
- (2) A person receiving a Statement of Costs under division (e) hereof may, within fifteen (15) days of receipt of the Statement of Costs, request a meeting with the City Manager to discuss the amount(s) charged in the Statement of Costs. The City Manager, in his or her discretion, and for good cause shown, may reduce the amount(s) stated in the Statement of Costs. The decision of the City Manager shall be final.
(Ord. 0-06-20-09. Passed 6-18-20.)

1313.06 STAIRWAYS.

(a) Exterior Stairways. All exterior stairways on all residential premises shall be in accordance with the following provisions:

- (1) Stairways shall be maintained free of holes, grooves, and cracks which constitute a safety hazard;
- (2) Stairways shall be maintained free of rotted or deteriorated supports;
- (3) Stairways shall have treads of uniform width and risers of uniform height; and
- (4) Stairway handrails and/or railings shall be firmly fastened and maintained in good condition. Where the absence of handrails and/or railings create a hazardous condition, the Enforcement Officer may require their installation in accordance with the provisions of the Ohio Building Code.
(Ord. O-07-98-27A. Passed 9-3-98.)

1313.07 ACCESSORY STRUCTURES.

All structures accessory to the dwellings, including detached garages, shall be maintained structurally sound, neatly maintained, and in good repair or shall be razed to grade level and debris removed from the premises. Barns, sheds and other outbuilding, whether or not accessory to the dwelling, shall be maintained structurally sound, neatly maintained, and in good repair or shall be razed to grade level and debris removed from the premises.
(Ord. O-07-98-27A. Passed 9-3-98.)

1313.08 PLACEMENT OF RECEPTACLES.

All residential garbage containers shall be placed at the curb or authorized alley location for pickup unless prior arrangements have been made for pickup at another location. No such garbage container shall be placed at the curb earlier than 24 hours preceding the pickup and all containers shall be removed within 24 hours after the pickup. When not at the curb for pickup, all garbage receptacles shall either be in an enclosed building or placed behind the front building line (the front wall of the house)

- (a) Multi-family Dwelling Units. All multi-family dwelling units utilizing a dumpster for trash removal must locate the dumpster to the rear of the structure. If a multi-family dwelling unit does not use a dumpster, residents must follow the same requirements as defined in this section.
- (b) Bundling of Trash. If trash is of such nature that it cannot be put in the regulation containers, it shall be placed in a manner as specified by the City contract with the trash hauler and placed at the curb or alley as specified under this section.
- (c) Bulk Trash Pickup. Unless special arrangements have been made with the City prior to placement, bulk items shall not be placed at the curb earlier than 48 hours preceding the scheduled pickup.
(Ord. O-07-98-27A. Passed 9-3-98.)

1313.09 ABATEMENT OF BULK ITEMS BY CITY.

All bulk items not removed by the City's waste disposal contractor on the scheduled pick up day shall be removed from the curb or authorized alley location within forty-eight (48) hours of the scheduled pick up day by the property owner, occupant, or person having charge of the premises or his or her designee.

- (a) Order of Remediation. When the Code Enforcement Officer determines a violation of this Section 1313.09 exists, the Code Enforcement Officer shall give Notice of an Order of Remediation ("Notice") to the owner, occupant, or person having charge of the premises upon which the violation exists to remedy such violation. Said Notice shall be in writing and conspicuously posted at the subject property. The owner, occupant, or person having charge of the premises shall be advised in the Notice of the specific violation and that the violation must be remedied within forty-eight (48) hours of the date the Notice was posted. The Notice shall also contain the date it was posted.
- (b) Failure to Comply. If the owner, occupant, or person having charge of the premises fails to comply with the Notice specified in subsection (a) hereof, then the Code Enforcement Officer or his or her designee may cause the bulk items to be removed either by the City or by an authorized designee of the City as determined by the City Manager.
- (c) Statement of Costs. The owner, occupant, or person having charge of the premises shall pay for all costs incurred by the City for removal and disposal of the bulk items, including but not limited to, dumping fees, plus a ten percent (10%) fee for administration. All fees and expenses shall be paid to the City in full within twenty (20) days of receipt of the statement of costs. If all fees and expenses are not paid in full when due, then the City shall certify to the County Auditor the proceedings taken hereunder together with a statement of the charges and a legal description of the property. Such amounts shall be entered upon the taxes and returned to the City General Fund.
- (d) Right of Appeal. The owner, occupant, or person having charge of the premises may appeal the Notice of Order of Abatement by filing an appeal within ten (10) days from the date of said Notice pursuant to Section 1309.10 and following the procedures provided therein.
(Ord. 0-09-16-18. Passed 9-15-16.)

1313.10 PLACEMENT OF PORTABLE TOILETS IN RESIDENTIAL AREAS.

- (a) Definitions. As used in this Section 1313.10, the following definitions shall apply:
 - (1) Portable Toilet: A commercially manufactured or assembled toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection. Portable toilets shall have a watertight, impervious pail or tank containing a chemical solution placed immediately beneath the seat or urinal and a pipe or conduit connecting the riser with the tank.
- (b) Permit Required. Prior to placement of a Portable Toilet in an area zoned residential, application shall be made, on a form prescribed by the City, to the Director of Development. This Section 1313.10 applies to placement of Portable Toilet(s) only in residentially zoned areas of the City.
- (c) Placement. A permit for placement of Portable Toilets shall be issued by the Director of Development in areas zoned residential only upon the following conditions:

- (1) Placement is necessary during active construction and/or reconstruction of one or more residential units as a temporary facility to serve construction workers. When construction workers are not present on-site, portable toilet(s) shall be secured; and
 - (2) Portable Toilet(s) shall not be placed for a period in excess of sixty (60) days without specific written authorization from the Director of Development. The Director of Development may renew a permit upon a showing of good cause for an additional period of time not to exceed 60 days without the payment of an additional permit fee. Portable Toilet(s) may be placed for a period exceeding sixty (60) days in a newly platted development where multiple new units will be under construction simultaneously, with specific written authorization from the Director of Development. The Director of Development may waive the location requirements for such newly platted development(s) if the Director finds the general health, safety and welfare of the community will be served; and
 - (3) Once placed, portable toilet(s) shall be regularly maintained and kept in good working order and condition at all times, including but not limited to, no broken surfaces, leaks, or foul or obnoxious odors shall be permitted; and
 - (4) Portable toilet(s) are to be placed no less than forty (40) feet from all other neighboring property lines. If property dimensions prevent placement of a portable toilet a minimum of forty (40) feet from a neighboring property line, then the portable toilet must be located no closer than thirty-five percent (35%) of the width of said property line from the neighboring property line(s); and
 - (5) Portable toilet(s) shall be placed on a hard surface; and
 - (6) Portable toilet(s) shall not be placed within the public right-of-way nor upon any public sidewalk; and
 - (7) Portable toilet(s) shall not be placed for the purpose of providing sewer service to a site, residence, or facility where sewer or water service has been discontinued due to delinquency of the account; and
 - (8) Payment of the required permit fee; and
 - (9) The Director of Development may specify in writing additional conditions for issuance of a permit, not enumerated herein, which the Director in good faith believes are necessary to protect the health, safety, and welfare of the citizens or general public.
- (Ord. O-08-19-11. Passed 9-5-19.)

1313.99 PENALTY.

In addition to penalties specified in Section 1309.99, "Violations and Penalties", violations of Sections 1313.08, 1313.09, and 1313.10 may result in the City abating the violation at the property owner's expense. In addition, whoever violates Section 1313.09 shall be fined one hundred dollars (\$100.00) for each offense in addition to any other costs incurred by the City.

(Ord. O-08-19-11. Passed 9-5-19.)

CHAPTER 1317
Commercial Exterior Property Maintenance Standards

1317.01	General provisions.	1317.04	Exterior property and structure exteriors.
1317.02	Structural soundness and maintenance of commercial structures.	1317.05	Vegetation.
1317.03	Paint and coating materials.	1317.06	Stairways.
		1317.07	Accessory structures.

CROSS REFERENCES

Junk vehicles - see TRAF. 303.10
Littering and deposit of refuse - see GEN. OFF. 521.08
Nuisances - see GEN. OFF. Ch. 531

1317.01 GENERAL PROVISIONS.

Every commercial structure and commercial unit shall meet all of the provisions and requirements of the official zoning code, building code, fire code and health ordinance applicable to the structure and its intended and present use. Where these codes require the provision of a particular facility or equipment, or where they set a structural or installation standard, such related parts of every commercial structure and commercial unit shall be maintained to the minimum standard provided for in the applicable section of this Code or to the minimum standard provided for in the above codes, whichever standard is higher.

The following commercial exterior property maintenance standards are applicable to all commercial structures, commercial units, and portions of mixed use structures which are devoted to commercial use, including all exterior and structural requirements, soundness and maintenance. (Ord. O-07-98-27A. Passed 9-3-98.)

1317.02 STRUCTURAL SOUNDNESS AND MAINTENANCE OF COMMERCIAL STRUCTURES.

Every foundation, floor, wall, ceiling and roof of every commercial structure shall be so constructed and maintained and be kept in good repair and in safe condition so as to make all occupied rooms and other interior areas weather-tight, water-tight, rodent proof and so as to be fit for human use and so as to not adversely affect the neighborhood in which they are located. Good repair, maintenance and safe condition shall include but is not limited to the following:

- (a) Foundations. Foundations shall support the building at all points and shall be free of all holes and cracks which admit rodents, water or dampness to the interior of the building or lessen the capability of the foundation to support the building.
- (b) Exterior Walls and Surfaces. Exterior walls and other exterior surface materials shall be free of holes, cracks, loose or rotting boards and timbers or any other condition which might admit rodents, rain or dampness to the interior of the dwelling.
- (c) Windows. Windows shall be fully supplied with window glass or an approved substitute which is glazed and is without open cracks or holes, shall have sashes in good condition which fit within frames, and maintained so as to exclude adverse weather elements from entering the structure.

- (d) Exterior Doors. Doors shall be maintained so as to be structurally sound, fit within frames so as to be weatherproof, windproof, and water-proof and be provided with door hinges and door latches which are in good working condition.
- (e) Roof. Roof members, covering and flashing shall be structurally sound and tight so as to prevent the entrance of moisture and be maintained by renewal, repair, waterproofing or other suitable means. Roof drainage shall be adequate to prevent rain water from causing dampness in the interior portion of the building.
- (f) Gutters. Rain gutters, downspouts, leaders or other means of water diversion shall be provided to collect/conduct and discharge all water from the roof and maintained so as not to leak or cause dampness in the walls, ceiling, or basements or adversely affect adjacent properties.
- (g) Chimneys. Chimneys shall be free of cracks, holes or missing portions and maintained in sound condition.
- (h) Porch. Every porch shall be so constructed and maintained so as to be free of missing, defective, rotting or deteriorated foundations, supports, floors, other members, and steps thereto, so as to be safe to use and kept in sound condition and in good repair.
- (i) Structural Member. Any structural member of a structure which has become deteriorated or damaged to the extent that it does not serve the purpose as originally intended shall be renewed, restored, repaired, or replaced as is necessary to serve the purpose as originally intended.
- (j) Exterior Surface. Except for materials that have been designed or manufactured to remain untreated, all exterior wood, composition or metal surfaces shall be protected from the elements by paint or other protective covering. Surfaces shall be maintained so as to be kept clean and free of flaking, loose or peeling paint or covering.
- (k) Basement. Basement or cellar hatchways shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage into the structure.
- (l) Decorative Features. All cornices, entablatures, bell courses, corbels, terracotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
(Ord. O-07-98-27A. Passed 9-3-98.)

1317.03 PAINT AND COATING MATERIALS.

All paint and other coating materials shall be free of any lead. These materials shall also be free of dangerous substances banned from general use by authorized federal, state, county, or local regulatory agencies for health and safety reasons.
(Ord. O-07-98-27A. Passed 9-3-98.)

1317.04 EXTERIOR PROPERTY AND STRUCTURE EXTERIORS.

All buildings and the exterior of all premises shall be properly maintained to achieve a presentable appearance and to avoid blighting effects and hazardous conditions.

- (a) Exterior Surface. The exterior open space around each structure shall be maintained or so improved so as to provide for:
 - (1) The immediate diversion of water away from buildings and proper drainage of the lot;
 - (2) Grass, plantings or other suitable ground cover to prevent soil erosion which is or may become detrimental to the structures, lot use or adjacent lots and structures; and(Ord. O-07-98-27A. Passed 9-3-98.)

- (3) Yard-walks, parking areas, driveways, including the approach, and exterior steps which are of a permanently hard, dust free surface of sound construction and properly maintained.
(Ord. O-10-10-12. Passed 11-4-10.)
- (b) Maintenance. The exterior of all premises and every structure thereon including but not limited to walls, roofs, cornices, chimneys, drains, towers, porches, landings, fire escapes, stairs, store fronts, signs, windows, doors, awnings, marquees, and all surfaces thereof, shall be maintained so as to avoid any blighting effects on neighboring properties and shall be painted or protected where necessary for the purpose of preservation.
All canopies, marquees, signs, awnings, exterior stairways, fire escapes, standpipes, exhaust ducts, porches, balconies, and similar overhanging extensions, and their supporting structures where exposed to public view, shall be maintained in good condition and shall not show evidence of ripping, tearing, or deterioration. Prohibited and obsolete signs shall be removed or replaced pursuant to the applicable sections of the Zoning Code.
- (c) Fences and Walls. All fences, retaining walls, or similar structures shall be anchored firmly in the ground, shall be constructed in a workmanlike manner and maintained in that same manner so that such approved fences, retaining walls, or similar structures shall always be in the state of good structural repair. If any fence, retaining wall, or similar structure is found not to be in the state of good structural repair, it shall be removed, replaced, or repaired as required. Except when constructed of materials that have been designed or manufactured to remain untreated, all fences shall be treated periodically with paint or chemicals so as to retard deterioration.
- (d) Yards. All yards, courts, and lots shall be kept free of noxious weeds, overgrown grasses, debris and other materials which may cause a fire, health, safety hazard, or general unsightliness.
- (e) Hazards. Hazards and unsanitary conditions shall be eliminated.
- (f) Occupancy. No temporary buildings, trailers, recreational vehicles, tents, or garages shall be used temporarily or permanently as a residence in the course of construction.
- (g) Drainage. All portions of all premises shall be so graded that there is no pooling of water or recurrent entrance of water into any part of any building except where such pooling or retention of water is part of a plan approved by the Municipal Engineer or his designate. All condensate and waste cooling water shall be appropriately discharged into an approved drainage system.
- (h) Drainage Swales. Swales are to be maintained by the owners of the parcels on which they are located, and at no time will anyone plant trees and/or shrubs or discharge, empty, or place any material fill or waste into any swale so as to impede or divert drainage flow. Small swales can be mowed as part of the yard. Larger swales in meadow situations should be mowed less frequently in order to allow grasses to grow taller to retard runoff and prevent erosion. Swales in woodland areas should be left in their natural condition leaving the understory growth to retard runoff and prevent erosion.
- (i) Junk, Inoperable or Unlicensed Vehicle. No junk, inoperable, or unlicensed vehicle shall be located on any commercial property, except when stored within a completely enclosed building or in a manner in conformance with the zoning code.

- (j) **Traffic Markings.** All traffic markings such as directional arrows, lane division lines, parking space lines, stop signs, etc., shall be maintained so as to be clearly visible and easily recognized.
- (k) **Conduct of Business.**
 - (1) All business activity, except for off-street loading, shall be conducted within completely enclosed buildings.
 - (2) All storage of trash and garbage containers and/or dumpsters shall be effectively screened from view in a manner approved by the Enforcement Officer.
 - (3) All storage of materials, goods or products, including inoperable vehicles, shall be within a completely enclosed building. EXCEPTION: Those businesses which are permitted or conditionally permitted under the terms of the City Zoning Resolution to conduct business or maintain outdoor storage of materials, goods or products out-of-doors are excepted from compliance with this and subsection (k)(1) hereof.
- (l) **Exterior Lighting Fixtures.** Exterior lighting fixtures over steps, paths, walkways, courts, drives and parking lots shall be neatly maintained in operable condition and lighted for sufficient periods of time before and after business hours to provide for pedestrian and employee safety and properly aimed so as not to shine on adjacent properties (per local zoning regulation).
(Ord. O-07-98-27A. Passed 9-3-98.)

1317.05 VEGETATION.

(a) **Vegetation Cutting Required.** All grass, weeds or rank vegetation shall be periodically cut and in no case shall exceed a height of eight (8) inches.

(b) **Maintenance of Plantings.** All plant materials, especially trees and shrubs, afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material shall be removed or appropriately treated. All sound plant materials, especially trees and shrubs, shall be properly maintained and not evidence signs of neglect.
(Ord. O-07-98-27A. Passed 9-3-98.)

1317.06 STAIRWAYS.

(a) **Exterior Stairways.** All exterior stairways on all commercial premises shall be in accordance with the following procedures:

- (1) Stairways shall be maintained free of holes, grooves, and cracks which constitute a safety hazard;
- (2) Stairways shall be maintained free of rotted or deteriorated supports;
- (3) Stairways shall have treads of uniform width and risers of uniform height; and
- (4) Stairway handrails and/or railings shall be firmly fastened and maintained in good condition. Where the absence of handrails and/or railings create a hazardous condition, the Enforcement Officer may require their installation in accordance with the provisions of the Ohio Building Code.
(Ord. O-07-98-27A. Passed 9-3-98.)

1317.07 ACCESSORY STRUCTURES.

All structures accessory to commercial use, including signs and detached storage buildings, shall be maintained structurally sound, neatly maintained, and in good repair or shall be razed to grade level and debris removed from the premises.
(Ord. O-07-98-27A. Passed 9-3-98.)

CHAPTER 1321
Industrial Exterior Property Maintenance Standards

<p>1321.01 General provisions.</p> <p>1321.02 Structural soundness and maintenance of industrial structures.</p> <p>1321.03 Paint and coating materials.</p>	<p>1321.04 Exterior property and structure exteriors.</p> <p>1321.05 Vegetation.</p> <p>1321.06 Stairways.</p> <p>1321.07 Accessory structures.</p>
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CROSS REFERENCES

Junk vehicles - see TRAF. 303.10
 Littering and deposit of refuse - see GEN. OFF. 521.08
 Nuisances - see GEN. OFF. Ch. 531

1321.01 GENERAL PROVISIONS.

Every industrial structure and industrial use shall meet all provisions and requirements of the official zoning code, building code, fire code and health ordinance applicable to the structure and its intended and present use. Where these codes require the provision of a particular facility or equipment, or where they set a structural or installation standard, such related parts of every industrial structure and industrial use shall be maintained to the minimum standard provided for in the applicable section of this Code or to the minimum standard provided for in the above codes, whichever standard is higher.

The following industrial exterior property maintenance standards are applicable to all industrial structures, industrial uses, and portions of mixed use structures which are devoted to industrial use, including all exterior and structural requirements, soundness and maintenance. (Ord. O-07-98-27A. Passed 9-3-98.)

1321.02 STRUCTURAL SOUNDNESS AND MAINTENANCE OF INDUSTRIAL STRUCTURES.

Every foundation, floor, wall, ceiling and roof of every industrial structure shall be so constructed and maintained and be kept in good repair and in safe condition so as to make all interior areas weather-tight, water-tight, rodent proof and so as to be fit for human use and so as to not adversely affect the neighborhood in which they are located. Good repair, maintenance and safe condition shall include but is not limited to the following:

- (a) Foundations. Foundations shall support the building at all points and shall be free of all holes and cracks which admit rodents, water or dampness to the interior of the building or lessen the capability of the foundation to support the building.
- (b) Exterior Walls and Surfaces. Exterior walls and other exterior surface materials shall be free of holes, cracks, loose or rotting boards and timbers or any other condition which might admit rodents, rain or dampness to the interior of the building.

- (c) Windows. Windows shall be fully supplied with window glass or an approved substitute which is glazed and is without open cracks or holes, shall have sashes in good condition which fit within frames, and maintained so as to exclude adverse weather elements from entering the structure.
- (d) Exterior Doors. Doors shall be maintained so as to be structurally sound, fit within frames so as to be weatherproof, windproof, and water-proof and be provided with door hinges and door latches which are in good working condition.
- (e) Roof. Roof members, covering and flashing shall be structurally sound and tight so as to prevent the entrance of moisture and be maintained by renewal, repair, waterproofing or other suitable means. Roof drainage shall be adequate to prevent rain water from causing dampness in the interior portion of the building.
- (f) Gutters. Rain gutters, downspouts, leaders or other means of water diversion shall be provided to collect/conduct and discharge all water from the roof and maintained so as not to leak or cause dampness in the walls, ceiling, or basements or adversely affect adjacent properties.
- (g) Chimneys. Chimneys shall be free of cracks, holes or missing portions and maintained in sound condition.
- (h) Structural Member. Any structural member of a structure which has become deteriorated or damaged to the extent that it does not serve the purpose as originally intended shall be renewed, restored, repaired, or replaced as is necessary to serve the purpose as originally intended.
- (i) Exterior Surface. Except for materials that have been designed or manufactured to remain untreated, all exterior wood, composition or metal surfaces shall be protected from the elements by paint or other protective covering. Surfaces shall be maintained so as to be kept clean and free of flaking, loose or peeling paint or covering.
- (j) Decorative Features. All cornices, entablatures, bell courses, corbels, terracotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
(Ord. O-07-98-27A. Passed 9-3-98.)

1321.03 PAINT AND COATING MATERIALS.

All paint and other coating materials shall be free of any lead. These materials shall also be free of dangerous substances banned from general use by authorized federal, state, county, or local regulatory agencies for health and safety reasons.
(Ord. O-07-98-27A. Passed 9-3-98.)

1321.04 EXTERIOR PROPERTY AND STRUCTURE EXTERIORS.

All buildings and the exterior of all premises shall be properly maintained to achieve a presentable appearance and to avoid blighting effects and hazardous conditions.

- (a) Exterior Space. The exterior open space around each structure shall be maintained or so improved so as to provide for:
 - (1) The immediate diversion of water away from buildings and proper drainage of the lot;
 - (2) Grass, plantings or other suitable ground cover to prevent soil erosion which is or may become detrimental to the structures, lot use or adjacent lots and structures; and (Ord. O-07-98-27A. Passed 9-3-98.)
 - (3) Yard-walks, parking areas, driveways, including the approach, and exterior steps which are of a permanently hard, dust free surface of sound construction and properly maintained.
(Ord. O-10-10-12. Passed 11-4-10.)

- (b) Maintenance. The exterior of all premises and every structure thereon including but not limited to walls, roofs, cornices, chimneys, drains, towers, fire escapes, stairs, fronts, signs, windows, doors, awnings, marquees, and all surfaces thereof, shall be maintained so as to avoid any blighting effects on neighboring properties and shall be painted or protected where necessary for the purpose of preservation.
All canopies, marquees, signs, awnings, exterior stairways, fire escapes, standpipes, exhaust ducts, and similar overhanging extensions, including their supporting structures where exposed to public view, shall be maintained in good condition and shall not show evidence of ripping, tearing, or deterioration. Prohibited and obsolete signs shall be removed or replaced pursuant to the applicable sections of the Zoning Code.
- (c) Fences and Walls. All fences, retaining walls, or similar structures shall be anchored firmly in the ground, shall be constructed in a workmanlike manner and maintained in that same manner so that such approved fences, retaining walls, or similar structures shall always be in the state of good structural repair. If any fence, retaining wall, or similar structure is found not to be in the state of good structural repair, it shall be removed, replaced, or repaired as required. Except when constructed of materials that have been designed or manufactured to remain untreated, all fences shall be treated periodically with paint or chemicals so as to retard deterioration.
- (d) Yards. All yards, courts, and lots shall be kept free of noxious weeds, overgrown grasses, debris and other materials which may cause a fire, health, safety hazard, or general unsightliness.
- (e) Hazards. Hazards and unsanitary conditions shall be eliminated.
- (f) Occupancy. No temporary buildings, trailers, recreational vehicles, tents, or garages shall be used temporarily or permanently as a residence in the course of construction.
- (g) Drainage. All portions of all premises shall be so graded that there is no pooling of water or recurrent entrance of water into any part of any building except when such pooling or retention of water is part of a plan approved by the Municipal Engineer or his designate. All condensate and waste cooling water shall be appropriately discharged into an approved drainage system.
- (h) Drainage Swales. Swales are to be maintained by the owners of the parcels on which they are located, and at no time will anyone plant trees and/or shrubs or discharge, empty, or place any material fill or waste into any swale so as to impede or divert drainage flow. Small swales can be mowed as part of the yard. Larger swales in meadow situations should be mowed less frequently in order to allow grasses to grow taller to retard runoff and prevent erosion. Swales in woodland areas should be left in their natural condition leaving the understory growth to retard runoff and prevent erosion.
- (i) Junk, Inoperable or Unlicensed Vehicle. No junk, inoperable, or unlicensed vehicle shall be located on any industrial property, except when stored within a completely enclosed building or in a manner in conformance with the Zoning Code.
- (j) Traffic Markings. All traffic markings such as directional arrows, lane division lines, parking space lines, stop signs, etc., shall be maintained so as to be clearly visible and easily recognized.

- (k) **Conduct of Business.**
- (1) All business activity, except for off-street loading, shall be conducted within completely enclosed buildings.
 - (2) All storage of trash and garbage containers and/or dumpsters shall be effectively screened from view in a manner approved by the Enforcement Officer.
 - (3) All storage of materials, goods or products, including inoperable vehicles, shall be within a completely enclosed building. EXCEPTION: Those businesses which are permitted or conditionally permitted under the terms of the Zoning Code to conduct business or maintain outdoor storage of materials, goods or products out-of-doors are excepted from compliance with this and subsection (k)(1) hereof.
- (l) **Exterior Light Fixtures.** Exterior lighting fixtures over steps, paths, walkways, courts, drives and parking lots shall be neatly maintained in operable condition and lighted for sufficient periods of time before and after working hours to provide for pedestrian and employee safety and properly aimed so as not to shine on adjacent properties (per local zoning regulation). (Ord. O-07-98-27A. Passed 9-3-98.)

1321.05 VEGETATION.

(a) **Vegetation Cutting Required.** All grass, weeds or rank vegetation shall be periodically cut and in no case shall exceed a height of eight (8) inches.

(b) **Maintenance of Plantings.** All plant materials, especially trees and shrubs, afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material shall be removed or appropriately treated. All sound plant materials, especially trees and shrubs, shall be properly maintained and not evidence signs of neglect. (Ord. O-07-98-27A. Passed 9-3-98.)

1321.06 STAIRWAYS.

(a) **Exterior Stairways.** All exterior stairways on all industrial premises shall be in accordance with the following provisions:

- (1) Stairways shall be maintained free of holes, grooves, and cracks which constitute a safety hazard;
- (2) Stairways shall be maintained free of rotted or deteriorated supports;
- (3) Stairways shall have treads of uniform width and risers of uniform height; and
- (4) Stairway handrails and/or railings shall be firmly fastened and maintained in good condition. Where the absence of handrails and/or railings create a hazardous condition, the Enforcement Officer may require their installation in accordance with the provisions of the Building Code. (Ord. O-07-98-27A. Passed 9-3-98.)

1321.07 ACCESSORY STRUCTURES.

All structures accessory to the industrial use, including signs, shall be maintained structurally sound and in good repair or shall be razed to grade level and debris removed from the premises. (Ord. O-07-98-27A. Passed 9-3-98.)

CHAPTER 1323
Abandoned Service Stations

<p>1323.01 Definitions.</p> <p>1323.02 Abatement of nuisance.</p> <p>1323.03 Bond.</p> <p>1323.04 Inspections and hearing.</p>	<p>1323.05 Repair or removal and restoration.</p> <p>1323.06 Inoperative service station.</p> <p>1323.99 Penalty.</p>
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CROSS REFERENCES

Abandoned service stations - see Ohio R.C. 3791.11 et seq.
Self-service stations - see Ohio R.C. 3741.14
Automotive service stations - see P. & Z. 1187.11

1323.01 DEFINITIONS.

As used in this section, certain words and terms shall have the following meanings:

- (a) "Service station" means any facility designed and constructed primarily for use in the retail sale of gasoline, other petroleum products, and related accessories; except that "service station" does not include any such facility that has been converted for use for another bona fide business purpose, on and after the date of commencement of such other use.
- (b) "Abandoned service station" means any service station that has not been used for the retail sale of gasoline, other petroleum products, and related accessories for a continuous period of six months, whenever failure to reasonably secure station buildings from ready access by unauthorized persons and to reasonably maintain the station's premises has resulted in conditions that endanger the public health, welfare, safety, or morals; provided, that such conditions include, but are not limited to, the presence of defective or deteriorated electrical wiring, heating apparatus, and gas connections, or of unprotected gasoline storage tanks, piping, and valves, or any combination of the foregoing; and provided further that the casual and intermittent use of a service station for the retail sale of any item described in subsection (a) hereof during such six-month period shall not be held to prevent the station from being determined an abandoned service station if it meets the other qualifications of this division.
- (c) "Chief Inspector" shall have the same meaning as the term "Enforcement Officer" delineated in Section 1309.07.
(Ord. 0-10-06-14. Passed 10-19-06.)

1323.02 ABATEMENT OF NUISANCE.

Any service station which is abandoned is hereby deemed to be a nuisance affecting or endangering surrounding property values and detrimental to the public health, safety, convenience, comfort, property or general welfare. Such nuisance shall be abated.
(Ord. 0-10-06-14. Passed 10-19-06.)

1323.03 BOND.

No person shall construct, renew operation of, or continue operation of a service station unless, prior to the commencement of construction or renewed operation and during the period of continued operation, a valid bond is on file and all requirements relative to said bond are satisfied as provided in Ohio R.C. 3791.11(B), (C) and (D).
(Ord. 0-10-06-14. Passed 10-19-06.)

1323.04 INSPECTIONS AND HEARING.

(a) In order to comply with Ohio R.C. 3791.12, the Enforcement Officer or such other person designated by the City Manager is hereby designated as the Chief Inspector to make inspections as set forth in Ohio R.C. Chapter 3791 dealing with abandoned service stations. Said Inspector's duties will be to inspect stations which appear to be abandoned as service stations as described in Section 1323.01(b) or no longer in use for any other bona fide business purpose. The Inspector designated under this section shall have the right to enter upon and inspect any service station that is, or appears to be, no longer in use as described in this section. No Inspector, while in lawful pursuit of his duties for such purpose, shall be subject to arrest for trespass while so engaged or for such cause thereafter.

(b) Whenever the Inspector, upon inspecting a service station as provided in this section, has reasonable cause to believe that it qualifies as an abandoned service station, he shall prepare a written report of the condition of the station's buildings and premises. The report shall be filed immediately with the City Manager. Upon receipt of the report, the City Manager shall fix a place and time, not less than thirty days nor more than sixty days after receipt of the report, for a hearing before the City Manager to determine whether the service station is an abandoned service station. The City Manager shall send written notice of the place and date of the hearing, together with a copy of the inspector's report and information that the service station may be ordered repaired or removed if determined to be abandoned, to all persons listed in the bond filed under Section 1323.03 and to all persons listed in the records of the County Recorder or County Clerk of Courts as holding a lien on the affected property. Such notice shall be sent by certified mail to the address shown on such records.

(c) In hearing the matter and deciding the issue, the City Manager shall consider the testimony of any persons appearing pursuant to notice, or their authorized representatives, the testimony of any witnesses appearing on behalf of such persons, the Inspector's report or testimony, or both, and any other evidence pertinent to the matter. If the City Manager thereupon determines that the service station is an abandoned service station in such condition as to constitute a danger to the public health, welfare, safety, or morals, he shall order the satisfactory repair, or removal, of the service station and its appurtenances, and restoration of the property, within such period of time, not less than thirty days, as the City Manager thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by subsection (b) hereof in the same manner as provided in that division.

(d) If an abandoned service station is not satisfactorily repaired or removed within the period of time provided in an order made under subsection (c) hereof, the City may enter the land and complete the repair, if repair was ordered, or remove the service station and its appurtenances, if removal was ordered, and restore the property.

(e) Any person aggrieved by an order issued by the City Manager under subsection (c) hereof may appeal as provided in Ohio R.C. Chapter 2506 within thirty (30) days of the mailing of notice of the order.

(f) In the event that no persons notified as provided in subsection (b) hereof, or their authorized representatives, appear at the hearing, respond to an order of the executive authority or board, or appeal within thirty days of the mailing of notice of the order as provided in subsection (e) hereof, the City may proceed as provided in subsection (d) hereof.
(Ord. 0-10-06-14. Passed 10-19-06.)

1323.05 REPAIR OR REMOVAL AND RESTORATION.

When the City enters and repairs or removes an abandoned service station and its appurtenances and restores the property as provided in Section 1323.04(d) or (f) hereof, it may bring an action on the bond filed pursuant to Section 1323.03 to recover the costs of repair or removal and restoration, plus the costs of the suit. If the costs of repair or removal and restoration exceed the amount collected on the bond, the owner of the property and any lessee, other than a person leasing and operating the service station pursuant to a contract with a supplier of gasoline and other petroleum products, shall be jointly and severally liable for the deficiency. Such remedy shall be in addition to the penalty provided in Section 1323.99.
(Ord. 0-10-06-14. Passed 10-19-06.)

1323.06 INOPERATIVE SERVICE STATION.

Inoperative service stations which do not come within the definition of an abandoned service station shall be maintained in accordance with the provisions of these Codified Ordinances and the owner shall cut all grass and remove all rubbish and weeds from the premises. The parking of motor vehicles upon such premises shall be prohibited and the owner shall place in the window of such service station a sign of at least ten square feet in area notifying the public of this fact. Notwithstanding any other provision of these Codified Ordinances, if the Inspector finds that such notice is not complied with by the public, he may order the owner of the premises on which any station is inoperative for more than thirty (30) days to install fencing or a barricade approved by the Inspector which will be sufficient to block motor vehicle access to the property.
(Ord. 0-10-06-14. Passed 10-19-06.)

1323.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this Chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
(Ord. 0-10-06-14. Passed 10-19-06.)

CHAPTER 1325
Unsafe, Abandoned, or Uninhabitable Structures

1325.01	Scope.	1325.09	Nuisance.
1325.02	Intent.	1325.10	Enforcement authority.
1325.03	Definitions.	1325.11	Duties and powers of enforcement officer.
1325.04	Other regulations.	1325.12	Inspection and notice.
1325.05	Application of other laws.	1325.13	Posting of signs.
1325.06	Existing remedies.	1325.14	Permits.
1325.07	Validity.	1325.15	Repair or removal and hearing.
1325.08	Saving clause.	1325.99	Penalty.

CROSS REFERENCES

Building Code - see 1309.07
 Ohio R.C. 2506 - Appeals of Administrative Orders
 Ohio R.C. 715.26 - Removal of Unsafe Structures
 Ohio R.C. 715.261 - Recovery from Owner of Total
 Cost of Correcting Hazardous Condition or Abating Nuisance
 General Offenses Code - Chapter 521, 531

1325.01 SCOPE.

This Chapter 1325 is intended to protect the public health, safety, and welfare in all existing structures or part thereof, residential as well as nonresidential, and on all existing premises as hereinafter provided, by:

- (a) Establishing minimum maintenance standards for structures and premises now in existence;
- (b) Fixing the responsibilities of owners, operators, and occupants of all structures and premises; and
- (c) Providing for the administration of this Chapter 1325 and enforcement and penalties. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.02 INTENT.

This Chapter 1325 shall be construed liberally and justly to ensure the public health, safety, and general welfare insofar as they are affected by the maintenance of structures and premises. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.03 DEFINITIONS.

All words used herein shall have their customary meanings, except those specifically defined as follows:

- (a) "Abandoned Structure" means vacant and exhibiting material deterioration. As used herein, "vacant" means not occupied for business, residence, government, or institutional use for a continuous period of more than ninety (90) days. To be considered occupied, a structure must have appropriate utility service and comply with all applicable building, zoning, and health codes. As used herein, "material deterioration" means any maintenance or structural deficiency that would diminish the value or usability of a structure including, but not limited to, any broken windows, loose or missing siding, missing roof materials or elements, peeling paint, deteriorated pavement, dead trees or other vegetation, or other problems visible from beyond the property line that a reasonable person would deem a nuisance or eyesore of concern to the community.
- (b) "Uninhabitable Structure" means a structure or any part thereof, is unfit for human occupancy whenever the Enforcement Officer finds that such structure is unsafe, unlawful, or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- (c) "Unsafe Structure" means a structure or building or any part thereof which is found to be dangerous to life, health, property or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that it creates a safety hazard and/or is likely to partially or completely collapse.
- (d) "Structure" as used herein has the same meaning as defined in Section 1103.01 of this Code. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.04 OTHER REGULATIONS.

The provisions in this Chapter 1325 shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.05 APPLICATION OF OTHER LAWS.

Any repairs or alterations to a structure which may be caused directly or indirectly by the enforcement of this Chapter 1325 shall be done in accordance with the procedures and provisions of all applicable laws, rules, and regulations, including but not limited to, the City of Clayton and Montgomery County Building Codes. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.06 EXISTING REMEDIES.

The provisions of this Chapter 1325 shall not be deemed to abolish or impair existing remedies of the City or its officers or agencies relating to the repair or removal of any buildings which are deemed to be dangerous, unsafe, or unsanitary.
(Ord. 0-01-17-01. Passed 2-2-17.)

1325.07 VALIDITY.

If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter 1325 shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall continue in full force and effect, and, to this end, the provisions of this Chapter are hereby declared to be severable.
(Ord. 0-01-17-01. Passed 2-2-17.)

1325.08 SAVING CLAUSE.

This Chapter 1325 shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date hereof. Further, any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.
(Ord. 0-01-17-01. Passed 2-2-17.)

1325.09 NUISANCE.

Any abandoned, uninhabitable, or unsafe structure is hereby deemed to be a nuisance affecting or endangering surrounding property values and detrimental to the public health, safety, and general welfare. Such nuisance shall be abated by repair and rehabilitation or by removal in accordance with the procedure of this Chapter.
(Ord. 0-01-17-01. Passed 2-2-17.)

1325.10 ENFORCEMENT AUTHORITY.

(a) It shall be the duty and responsibility of the Enforcement Officer to enforce the provisions of this Chapter 1325 as herein provided. As used herein, the term "Enforcement Officer" shall have the same meaning as delineated in Section 1309.07 of this Code.

(b) The Enforcement Officer, and any Code Official, officer, or employee who acts in good faith in the discharge of his or her duties of enforcement of this Chapter is relieved of all personal liability for any damage that may accrue to persons or property as a result of such acts or alleged failure to act. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.11 DUTIES AND POWERS OF ENFORCEMENT OFFICER.

(a) General: The Enforcement Officer shall enforce all the provisions of this Chapter 1325 relative to the maintenance of structures and premises, except as may otherwise be specifically provided for by other regulations.

(b) Notices and Orders: The Enforcement Officer shall issue all necessary notices and orders to abate illegal or unsafe conditions to ensure compliance with this Chapter for the safety, health, and general welfare of the public, including but not limited to, orders of condemnation.

(c) **Inspections:** In order to protect the safety, health, and general welfare of the public, the Enforcement Officer is authorized to enter any structure or premises at any reasonable time for the purpose of making inspections and performing his duties under this Chapter.

(d) **Right of Entry:** If any owner, occupant, or other person in charge of a structure or premises subject to the provisions of this Chapter refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the structure or premises where inspection authorized by this Chapter is sought, the administrative authority may seek, in a court of competent jurisdiction, an order that such owner, occupant, or other person in charge cease and desist with such interference.

(e) **Credentials:** The Enforcement Officer or his or her authorized representative shall disclose proper credentials of his or her respective office for the purpose of inspecting any and all structures and premises in the performance of his or her duties under this Chapter.
(Ord. 0-01-17-01. Passed 2-2-17.)

1325.12 INSPECTION AND NOTICE.

(a) Whenever the Enforcement Officer has probable cause to believe a structure or premises is abandoned, uninhabitable, or unsafe, as defined in Section 1325.03, he shall make an inspection of such structure or premises. If, in the opinion of the Enforcement Officer, arrived at by following the applicable provisions of Section 1325.03, he decides such structure or premises is abandoned, uninhabitable, or unsafe, he shall cause written notice of an order to repair or remove the subject structure or premises to be given to the owner of such structure or premises and to all holders of legal or equitable liens of record as listed in the records of the County Recorder and County Clerk of Courts advising them of his determination. Such owner shall be given a period of thirty (30) days from the date the notice of order is received to repair or remove said structure or premises as ordered by the Enforcement Officer. A copy of the notice of order shall also be conspicuously posted on the structure or premises. An extension of this time may be given to such owner by the Enforcement Officer if a bona fide effort has been made to correct the condition of such structure or premises or if the Enforcement Officer determines extenuating circumstances exist. No person shall fail to comply with such notice of order within the stipulated period.

(b) Proper service of the notice of order required by Section 1325.12(a) shall be by certified mail, return receipt requested. The thirty (30) day period within which such owner is required to comply with the order of the Enforcement Officer shall begin as of the date he or she received such notice as evidenced by the return receipt. If certified mail service is refused or unclaimed as evidenced by the return of such certified mail with an endorsement showing such refusal or that the envelope was unclaimed, the Enforcement Officer shall reissue the notice of order by ordinary mail retaining the certified mail envelope and endorsement as evidence of such failure of certified mail service and service of the notice shall be deemed completed upon mailing of the ordinary mail notice. The Enforcement Officer shall note the fact of ordinary mail service and the date thereof in the records of such enforcement proceedings.
(Ord. 0-01-17-01. Passed 2-2-17.)

1325.13 POSTING OF SIGNS.

The Enforcement Officer shall cause to be posted at each entrance to any structure or premises determined by the Enforcement Officer to be abandoned, uninhabitable, or unsafe hereunder a notice to read:

**"DO NOT ENTER, UNSAFE TO OCCUPY.
CITY OF CLAYTON, OHIO"**

Said notice shall remain posted until the required repairs are made or removal is completed. No person shall remove such notice without permission of the Enforcement Officer, or enter the structure or premises, except for the purpose of making the required repairs or of removing same. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.14 PERMITS.

In all cases of construction or repair pursuant to orders of an Enforcement Officer hereunder, permits covering such work shall be obtained as required by the City's Building Code and any other applicable laws, rules or regulations, including but not limited to, any and all permits required by the Montgomery County Building Code. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.15 REPAIR OR REMOVAL AND HEARING.

(a) If the property owner does not comply with the notice of order to repair or remove provided for in Section 1325.12, the Enforcement Officer shall prepare a written report of this lack of compliance and serve a copy of said written report to the property owner and to all holders of legal or equitable liens of record as listed in the records of the County Recorder and County Clerk of Courts with notice therein that the structure or premises may be ordered repaired or removed within thirty (30) days of the date of said notice. Such notice shall be sent by certified mail, return receipt requested, to the address shown on such records. If certified mail service is refused or unclaimed as evidenced by the return of such certified mail with an endorsement showing such refusal or that the envelope was unclaimed, the Enforcement Officer shall reissue the notice by ordinary mail retaining the certified mail envelope and endorsement as evidence of such failure of certified mail service and service of the notice shall be deemed completed upon mailing of the ordinary mail notice. The Enforcement Officer shall note the fact of ordinary mail service and the date thereof in the records of such enforcement proceedings. A copy of said written report of non-compliance shall also be conspicuously posted on the structure or premises.

(b) The property owner and/or any holders of legal or equitable liens of record as listed in the records of the County Recorder and County Clerk of Courts on the affected property may appeal the determination of the Enforcement Officer that said structure is abandoned, uninhabitable, or unsafe by filing an Administrative Appeal with the Board of Zoning Appeals within twenty (20) days after the date stated on the report of non-compliance provided in subsection (a) hereof and following the Administrative Appeal procedures enumerated in Section 1127.05 of this Code. In hearing the matter and deciding the issue, the Board of Zoning Appeals shall consider the testimony and evidence of any persons appearing pursuant to notice, or their authorized representatives, the testimony and evidence of any witnesses appearing on behalf of

such persons, the Enforcement Officer's report, testimony and evidence, and any other evidence pertinent to the matter. If the Board of Zoning Appeals thereupon determines that the structure or premises is abandoned, uninhabitable, or unsafe so as to constitute a danger to the public health, safety, or general welfare it shall order the satisfactory repair or removal of the structure or premises and its appurtenances and restoration of the property, within such period of time, not less than thirty (30) days, as the Board of Zoning Appeals thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by Section (a) hereof in the same manner as provided in that Section.

(c) If an abandoned, uninhabitable, or unsafe structure is not satisfactorily repaired or removed within the period of time provided in an order made under division (b) of this Section, the City may enter the land and complete the repair, if repair was ordered, or remove the structure or premises and its appurtenances, if removal was ordered, and restore the property. Total costs incurred by the City shall be charged to the owner and certified to the County Auditor for collection. Total costs include, but are not limited to, any costs incurred due to use of employees, materials, or equipment of the City and/or its agents and costs associated with service of notices required hereunder.

(d) If a property owner and/or lienholder files an Administrative Appeal with the Board of Zoning Appeals and fails to appear for the hearing of same before the Board of Zoning Appeals, the City may proceed as provided in Section (c) hereof.

(e) Any person aggrieved by an order made under division (b) of this section, may appeal as provided in Chapter 2506 of the Ohio Revised Code.

(f) The remedies specified herein shall be in addition to the penalty provided in Section 1325.99. (Ord. 0-01-17-01. Passed 2-2-17.)

1325.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred and fifty dollars (\$150.00). A separate offense shall be deemed committed each day during or on which a violation or non-compliance occurs or continues.
(Ord. 0-01-17-01. Passed 2-2-17.)

NOTE: The next printed page is page 28M.

**CHAPTER 1329
Emergency Measures**

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|----------------|------------------------------------|----------------|---------------------------|
| 1329.01 | Imminent danger. | 1329.05 | Expedited hearing. |
| 1329.02 | Closing streets. | 1329.99 | Penalty. |
| 1329.03 | Emergency repairs. | | |
| 1329.04 | Costs of emergency repairs. | | |

1329.01 IMMINENT DANGER.

When, in the opinion of the Enforcement Officer, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or similar materials, or operation of defective or dangerous equipment, the Enforcement Officer is authorized and empowered to order and require the occupants of such structure or building to vacate the premises.

The Enforcement Officer shall cause to be posted at each entrance to such structure a notice which reads as follows:

**“DO NOT ENTER, UNSAFE TO OCCUPY.
CITY OF CLAYTON, OHIO”**

It shall be unlawful for any person to enter such structure or building except for the purpose of securing the building or structure, making the required repairs, removing hazardous conditions or demolishing the building or structure.

Notwithstanding other provisions of this code, when, in the opinion of the Enforcement Officer, there is imminent danger due to an unsafe condition, the Enforcement Officer is hereby authorized and empowered to order the necessary work to be done to render such structure or building safe and is hereby authorized and empowered to cause such other action to be taken as the Enforcement Officer deems necessary to meet such emergency.
(Ord. 0-10-06-14. Passed 10-19-06.)

1329.02 CLOSING STREETS.

When the Enforcement Officer deems it necessary, for public safety, the Enforcement Officer is hereby authorized and empowered to close, temporarily, structures or buildings, and to close, temporarily, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to or affected by unsafe structures or buildings, and prohibit same for being used. (Ord. 0-10-06-14. Passed 10-19-06.)

1329.03 EMERGENCY REPAIRS.

The Enforcement Officer, for purposes of this section, is hereby authorized and empowered to employ, subject to compliance with the City Charter and other ordinances and applicable requirements, the necessary labor and materials to perform the required work as expeditiously as possible. (Ord. 0-10-06-14. Passed 10-19-06.)

1329.04 COSTS OF EMERGENCY REPAIRS.

Costs incurred in the performance of emergency work may be paid by the City on approval of the Enforcement Official, subject to compliance with the City Charter and other ordinances and applicable requirements. The City's legal counsel may institute appropriate action against the owner of the premises where the unsafe building or structure is or was located for recovery of such costs. The costs of such emergency work shall be certified by the Finance Director of the City to the Montgomery County Auditor as a tax lien upon the premises in the manner provided in Ohio R.C. 715.261. Based on the emergency nature of such costs, notice to owners as provided in Chapter 1327 of the emergency work may be given by means other than prescribed in Chapter 1327 or may dispensed with entirely. If no advance notice is given at all, however, the lien authorized by Ohio R.C. 715.261 for such costs shall be subordinate to any liens of prior record. (Ord. 0-10-06-14. Passed 10-19-06.)

1329.05 EXPEDITED HEARING.

(a) Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall have the right to an expedited appeal of such order to the City Manager. Upon notice of such an appeal, the City Manager shall fix a time and place, not more than 10 days after receipt of notice of such an appeal for a hearing to determine whether emergency measures are required. The City Manager shall send written notice of the place and date of the hearing, to the owner of the structure, and to the persons occupying such building, if they are not the owners thereof, and to all persons listed in the records of the County Recorder or County Clerk of Courts as holding a lien on the affected property. Such notice shall be sent by certified mail and ordinary U.S. mail to the address shown on such records.

(b) In hearing the matter and deciding the issue, the City Manager shall consider the testimony of any persons appearing pursuant to notice, or their authorized representatives, the testimony of any witnesses appearing on behalf of such persons, the Enforcement Officer's report or testimony, or both, and any other evidence pertinent to the matter. If the City Manager thereupon determines that emergency measures are required to protect the public health, welfare, safety, or morals, he shall order the satisfactory repair, or removal, of the structure and its appurtenances, and restoration of the property, within such period of time as the City Manager thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by subsection (a) hereof in the same manner as provided in that division.

(c) Any person aggrieved by an order made under subsection (b) hereof, may appeal as provided in Chapter 2506 of the Ohio Revised Code within thirty days of the mailing of notice of the order.

(d) Such remedies shall be in addition to the penalty provided in Section 1327.99.
(Ord. 0-10-06-14. Passed 10-19-06.)

1329.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 0-10-06-14. Passed 10-19-06.)

CHAPTER 1331
Rental Unit Exterior Inspection Regulations

1331.01	Residential rental unit mandatory exterior inspection required.	1331.04	Appeal.
		1331.99	Penalty.
1331.02	Access to rental unit.		
1331.03	Notice of violation.		

1331.01 RESIDENTIAL RENTAL UNIT MANDATORY EXTERIOR INSPECTION REQUIRED.

(a) The owner or operator of a premises with a residential rental unit shall have the exterior of said structures inspected bi-annually, to determine compliance with the Building Code and Zoning Code.

(b) The owner or operator of a premise with a rental unit is subject to have the exterior of the premises and its structures inspected under any of the following circumstances:

- (1) If two or more notices and orders to comply have been issued to the owner or operator pursuant to any section of this chapter relating to the violation of any sections of the codes set forth in this section above, within any two year period, concerning the same premises, and have not been complied with within the time provided in the notices and orders to comply, the premises that was the subject of the notices and orders to comply shall be subject to mandatory inspections as specified in this section; or
- (2) If the owner or operator has been convicted of a violation of any sections of the codes set forth in this section above, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; or
- (3) If the owner or operator has had a premises ordered razed by the Enforcement Officer, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; or
- (4) The owner of the units has failed to register the units with the County Auditor in compliance with state law; or

- (5) In response to a complaint of an alleged violation of any of the provisions of this Chapter or the provisions of the applicable City of Clayton, Ohio codes.

(c) A notice and order to comply that is outstanding on or after December 2, 2006, or that is issued subsequent to December 2, 2006, may constitute an uncomplained notice and order to comply for purposes of enforcement of the mandatory inspections required by subsection (b)(1) of this section.

(d) A conviction that was obtained on or after December 2, 2006, shall constitute a conviction for purposes of enforcement of the mandatory inspections required by subsection (b)(2) of this section.

(e) A raze order that the Enforcement Officer issued on or after December 2, 2006, shall constitute a raze order for purposes of enforcement of the mandatory inspections required by subsection (b)(3) of this section.

(f) No owner or operator of a premises with a rental unit shall fail to obtain a rental unit mandatory exterior inspection from the Zoning Department when the provisions of this section require a rental unit mandatory exterior inspection.

(g) No fee shall be required for the bi-annual mandatory exterior inspection.

(h) A rental unit mandatory re-inspection fee of \$75 per hour for each re-inspection subsequent to the first inspection shall be paid.

(i) Money collected under this section shall be used exclusively for rental unit mandatory inspection purposes.
(Ord. 0-10-06-15. Passed 11-2-06.)

1331.02 ACCESS TO RENTAL UNIT.

(a) Access by Owner or Operator. Every occupant of a rental unit shall give, upon proper notice, the owner or operator thereof, or his/her agent or employee, access to any part of such rental unit at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with any lawful notice or order issued pursuant to the provisions of the applicable City of Clayton, Ohio codes.

(b) Access by Enforcement Officer. The Enforcement Officer or his/her duly authorized designee is hereby authorized to conduct inspections of the exterior premises and structures of any rental unit within the City of Clayton, Ohio in order to perform the duty of safeguarding the health, safety and welfare of the occupants and the public under the provisions of this chapter. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter or the provisions of the applicable City of Clayton, Ohio codes or whenever the Enforcement Officer or his/her duly authorized designee has probable cause to believe that there exists in any rental unit any condition which makes such rental unit in violation of any of the provisions of this Chapter or the provisions of the applicable City of Clayton, Ohio codes or in

response to a complaint that an alleged violation of any of the provisions of this Chapter or the provisions of the applicable City of Clayton, Ohio codes may exist, the Enforcement Officer or his/her duly authorized designee may enter such rental unit at all reasonable times to inspect the same or to perform any duty imposed upon the Enforcement Officer by this Chapter or the provisions of the applicable City of Clayton, Ohio codes, provided that if such rental unit is occupied, he/she shall first make a reasonable effort to locate the owner/operator, occupant or other person having charge or control of the rental unit and request entry giving 24-hour notice, when applicable, to the tenant. The Enforcement Officer or his/her duly authorized designee shall at such time:

- (1) Identify himself/herself and his/her position;
- (2) Explain why entry is sought;
- (3) Explain that the owner/operator or other person(s) having charge or control of the rental unit may refuse, without penalty, entry without a search warrant;
- (4) Provide documentation of written notice to the owner/operator giving 7-day notice of deficiency. (Such notice shall not be construed to imply that the repairs need be completed at that time.)

(c) Search Warrant. If consent to inspect a rental unit is withheld by any person or persons having the lawful right to exclude, the Enforcement Officer or his/her duly authorized designee may apply to a court of competent jurisdiction for a search warrant of the rental unit. No owner/operator or occupant or any person having charge, care or control of a rental unit shall fail or neglect, after presentation of a search warrant, to properly permit entry therein by the Official or his/her duly authorized designee for the purpose of inspection and examination pursuant to this Chapter. (Ord. 0-10-06-15. Passed 11-2-06.)

1331.03 NOTICE OF VIOLATION.

Whenever, upon inspection of a residential unit under this chapter, the Enforcement Officer finds that conditions or practices exist which are in violation of ordinances of the City of Clayton, Ohio, any authorized notice of violation shall state that unless the violations are corrected as specified in the notice, the owner shall be cited for violating this chapter and is subject to the remedy set forth in Section 1331.99. (Ord. 0-10-06-15. Passed 11-2-06.)

1331.04 APPEAL.

Any owner who has received an order pursuant to Section 1331.01(b) above shall be entitled to appeal the order to the Board of Zoning Appeals pursuant to Chapter 1127 by filing a notice of appeal with the Clerk of Council within 5 days following the date of the notice. (Ord. 0-10-06-15. Passed 11-2-06.)

1331.99 PENALTY.

A violation of the requirements of Sections 1331.01 through 1331.02 shall constitute a fourth degree misdemeanor for each offense. Each day such violation is continued, shall constitute a separate offense. (Ord. 0-10-06-15. Passed 11-2-06.)

CHAPTER 1333
Maintenance of Abandoned Residential Properties
Pending Foreclosure

1333.01	Purpose and scope.	1333.05	Registrant duties.
1333.02	Definitions.	1333.06	Appeals.
1333.03	Inspection of residential property.	1333.99	Penalty.
1333.04	Registration of abandoned residential property.		

1333.01 PURPOSE AND SCOPE.

The purpose of this section is to establish an abandoned residential property registration program and to regulate the maintenance of abandoned residential properties by parties asserting a collateral or other legal or equitable interest in the property. This section is intended to reduce and prevent neighborhood blight, to ameliorate conditions that threaten the health, safety and welfare of the public, to promote neighborhood stability and residential owner occupancy by preserving the condition and appearance of residential properties, and to maintain residential property values and assessments. Nothing in this section shall be construed as waiving, relieving or otherwise excusing an owner of residential property from compliance with all applicable building codes and ordinances and the owner or owners shall at all times remain responsible and liable therefor. (Ord. 0-09-09-12. Passed 9-17-09.)

1333.02 DEFINITIONS.

As used in this chapter:

- (a) "Abandoned property" or "abandoned premises" means a property that is vacant as the result of the relinquishment of possession or control by a mortgager or the mortgager's assigns whether or not the mortgager or mortgager's assigns have relinquished equity and title. Property may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned including, but not limited to evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices, accumulation of junk, litter, trash or debris, absence of window treatments such as blinds, curtains or shutters, absence of furnishings and personal items, and statements by neighbors, delivery agents or similarly situated persons that the property is vacant.

- (b) "Accessible structure" means a building that is accessible through a compromised door, wall, window or similar structure and which is unsecured in a manner that allows access to interior space by unauthorized persons.
- (c) "Agent" means a person, firm or other entity that, by agreement for payment of services, is responsible to a bank, lender, other financial institution or individual, for securing, maintaining, foreclosing upon or selling any residential property as the result of loan default or mortgage foreclosure proceedings whether or not the proceedings are judicial or initiated as the result of a power of sale clause in the mortgage document. In this chapter, agent does not include a servicing company. Except, however, an attorney shall not be deemed to be an agent if that attorney is retained solely to represent a bank, lender or other financial institution in connection with a foreclosure proceeding in a court of competent jurisdiction.
- (d) "Financial institution" means any individual, firm, corporation or entity other than a lender or duly constituted bank that asserts a collateral interest in residential real property as the result of an assignment, sale or transfer of a mortgage or similar instrument.
- (e) "Foreclosure" means the judicial process prescribed by the Ohio Revised Code and the process for non-judicial sale authorized by a power of sale clause in a mortgage document.
- (f) "Mortgage" means a written instrument creating a lien on real property whereby the mortgager retains the interest that the mortgager had at the time of mortgage until that interest is divested by some later act.
- (g) "Occupied property" or "occupied premises" means a premises on which any person over one year of age, including an owner or operator, lives, sleeps, cooks or otherwise maintains actual possession.
- (h) "Servicing company" means an individual, firm or entity that, as a regular part of its business, provides services to the owner or holder of one or more mortgage liens which services may include collection of payments, creation and administration of escrow and insurance accounts, assessment of late-payment charges, managing loss mitigation, and securing and managing foreclosed properties on behalf of the holder of a mortgage lien or the holder's attorney or agent.
- (i) "Vacant premises" means a building that is not lawfully occupied.
(Ord. 0-09-09-12. Passed 9-17-09.)

1333.03 INSPECTION OF RESIDENTIAL PROPERTY.

(a) Initial Inspection. Whenever a bank, lender or other financial institution shall directly, or through an agent or servicing company, initiate foreclosure proceedings upon residential real property, the bank, lender or other financial institution, either directly or through its agent or servicing company, shall cause a physical inspection to be made of the property not later than 30 days from the date of notice and in no event later than 30 days after the filing of foreclosure proceedings. One or more photographs shall be taken of the residential property accurately portraying the condition of the exterior premises. Photographs shall be dated and preserved.

(b) Periodic Inspections. Any bank, lender or financial institution, or its agent or servicing company, shall perform a re-inspection of a residential premises subject to foreclosure proceedings at least once every 30 days following the initial inspection until such time as the property is no longer in default as a result of agreement with the owner, or is sold at a sheriff's sale or is otherwise lawfully conveyed to a new owner. One or more photographs shall be taken at each re-inspection and shall be dated and preserved in the same manner as is required upon initial inspection. (Ord. 0-09-09-12. Passed 9-17-09.)

1333.04 REGISTRATION OF ABANDONED RESIDENTIAL PROPERTY.

(a) If, upon inspection of residential property required by Section 1333.03, it should be determined that the property is abandoned, the bank, lender, other financial institution or its responsible agent or servicing company, shall register the property in the name of the lien holder with the City on a form prescribed by the City that includes, but is not limited to, information identifying the location of the property, the last known owner or owners of the property, the date foreclosure proceedings were commenced and the docket number of the foreclosure action, a description of the external condition of the property and whether there is an accessible structure on the property. Registration information shall identify the agent or servicing company, if any, that is authorized by the lien holder to enter upon the property and to conduct repairs or maintenance as required in Section 1333.05.

(b) Registration of abandoned property shall be made within 5 working days of inspection. The fee for registration of abandoned residential property is \$75.00. If it should appear that the registration is filed 6 or more days after the inspection, an additional late fee of \$25.00 will be charged. The registration shall be valid from the date the registration form is completed and filed with the City if the registration fee is received by the City within 7 days of receipt of the registration form. If the registration fee is not received within 7 days of receipt of the registration form, an additional late fee of \$25.00 will be charged.

(c) The registration will be dissolved and considered void upon receipt by the City of written evidence of a sale in foreclosure, redemption of the property by the lien holder or other transfer of the lien holder's interest.
(Ord. 0-09-09-12. Passed 9-17-09.)

1333.05 REGISTRANT DUTIES.

(a) The property maintenance duties of a registrant are limited to the following:

- (1) Assuring that there are no accessible structures on the premises.
- (2) Assuring that there are no conditions upon the property presenting an immediate risk to health and safety of the public including removing or abating fire hazards, removing or containing potentially toxic materials and explosives, securing the perimeters of swimming pools, ponds or other bodies of water, and maintaining public walkways and thoroughfares free from ice, snow, mud and other debris consistent with the requirements of subsection (c) hereof.

(b) A registrant shall include a statement in the registration form identifying any action taken or planned to be taken to comply with the requirements of subsection (a) hereof. From and after registration of the abandoned residential property, or from and after the time that registration is required to be made, and until the abandoned residential property has been sold at a sheriff's foreclosure sale or has otherwise been legally conveyed to a new owner, the City may make a finding that the conditions of the residential premises constitute an immediate threat to the health, safety and welfare of the public and, upon such finding, may issue a written order to the registrant to abate the condition. If the registrant, or party with a duty to register, fails to comply with the order of the City within 10 days, the City may enter and abate said nuisance and the cost thereof shall be certified to the County Auditor for collection in the same manner as other taxes and assessments are collected. This remedy is in addition to other penalties and/or remedies available to the City.

(c) The minimum requirements of a registrant, or party with a duty to register, for preservation and protection of residential premises, absent a specific order of the City to abate a condition of the premises, shall be consistent with the rules, regulations and other requirements published by the Federal Housing Administration (FHA) of the United States Department of Housing and Urban Development for the preservation and protection of single-family residential properties secured by FHA loans as those requirements may be amended by FHA mortgagee letters or otherwise, and as applied by the FHA to the State of Ohio including guidelines related to winterization and heating systems. Under these guidelines, debris removal shall be deemed to include snow and ice removal, and the elimination of weeds and other plant growths. The City may require a registrant, or party with a duty to register, to repay the Department the reasonable costs incurred by the Department related to abatement of conditions that are subject to FHA guidelines identified in this paragraph or which are subject to an order under subsection (b) hereof and threaten the health, welfare and safety of the public.

(d) A registrant shall maintain written records, including photographs, of any re-inspection required herein that identifies any change in condition of the abandoned real property requiring correction under subsections (a) and (b) hereof, and identifying actions taken or planned to assure compliance. Written records of re-inspection shall be made available to the City or City's designee upon request.

(e) A registrant, or registrant's agent or servicing company, shall provide notice to the City in a manner to be prescribed by the City, within 15 working days, of any agreement executed by the lawful owner with the party or parties asserting a mortgage lien interest curing or otherwise forgiving default of the mortgage lien, or within 15 days of a sheriff's sale in foreclosure or other sale or lawful conveyance of the abandoned residential property, and declaring that registrant is no longer responsible for inspection of the registered property or for securing or maintaining the property. If the foreclosing entity purchases the subject property at Sheriff's Sale or otherwise, its duties as specified in Sections 1333.03 through 1333.05 shall remain unaffected until such time as the foreclosing entity lawfully conveys the property to another. Upon receipt of the notice required in this paragraph, the City shall dissolve the registration.
(Ord. 0-09-09-12. Passed 9-17-09.)

1333.06 APPEALS.

Any person aggrieved by any of the requirements of this Chapter may appeal insofar as such appeal is allowed under Chapter 1309.
(Ord. 0-09-09-12. Passed 9-17-09.)

1333.99 PENALTY.

(a) Failure to Inspect. Any person, firm, bank, lender, financial institution or an agent or servicing company that fails its duty to inspect or re-inspect residential property as required herein shall, upon conviction, forfeit not less than \$250 nor more than \$1,000, together with the cost of the action, and in default of payment thereof may be imprisoned for not less than 10 days nor more than 40 days.

(b) Failure to Register. Any person, firm, bank, lender, financial institution or an agent or servicing company that fails its duty to register abandoned residential property as required hereunder shall, upon conviction, forfeit not less than \$500 nor more than \$2,000, together with the cost of the action, and in default of payment thereof may be imprisoned for not less than 20 days nor more than 80 days.

(c) Failure to Secure and Maintain. Any person, firm, bank, lender, financial institution or an agent or servicing company having a duty to register abandoned residential property that fails its duty to secure and maintain the property as required hereunder shall, upon conviction, forfeit not less than \$350 nor more than \$1,500, together with the cost of the action, and in default of payment thereof may be imprisoned for not less than 14 days nor more than 60 days.

(d) Failure to Maintain Records or Provide Written Notice. Any person, firm, bank, lender, financial institution or responsible agent or servicing company that fails to maintain records as required hereunder or to provide the notices required hereunder shall, upon conviction, forfeit not less than \$100 nor more than \$500, together with the cost of the action, and in default of payment thereof may be imprisoned for not less than 4 days nor more than 20 days.
(Ord. 0-09-09-12. Passed 9-17-09.)

TITLE THREE - Building Standards

Chap. 1335. Flood Damage Prevention Regulations.

Chap. 1337. Pre-Sale Inspection and Certificate of Occupancy.

**CHAPTER 1335
Flood Damage Prevention Regulations**

1335.01	General provisions.	1335.05	Appeals and variances.
1335.02	Definitions.	1335.06	Enforcement.
1335.03	Administration.		
1335.04	Use and development standards for flood hazard reduction.		

CROSS REFERENCES

County flood control aid to governmental units - see Ohio R.C. 307.77

Basis of zoning districts - see Ohio R.C. 713.10

Construction permits and prohibitions for dams, dikes or levees - see Ohio R.C. 1521.06

Flood hazards; marking flood areas - see Ohio R.C. 1521.14

Review of flood plain ordinances - see Ohio R.C. 1521.18

1335.01 GENERAL PROVISIONS.

(a) Statutory Authorization - City of Clayton. These Flood Damage Prevention Regulations are adopted and authorized by the Council of the City of Clayton pursuant to the authority granted in the Home Rule Provision of the Ohio Constitution as set forth in Article XVIII, Section 3.

(b) Findings of Fact. The City of Clayton has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(c) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

(d) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(e) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Clayton as identified in subsection (f) hereof, including any additional areas of special flood hazard annexed by the City of Clayton.

(f) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and/or maps are adopted:

- (1) The Flood Insurance Rate Map Montgomery County, Ohio and Incorporated Areas and the Flood Insurance Study Montgomery County, Ohio and Incorporated Areas both with an effective date of January 6, 2005.
- (2) Other studies and/or maps which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.

- (3) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Clayton as required by Section 1335.04(c), Subdivisions and Large Developments.

Any revisions to the aforementioned maps and /or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the City of Clayton Administration Building, 6996 Taywood Road, Englewood, Ohio.

(g) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction, covenant or easement but the land subject to such interests shall also be governed by the regulations.

(h) Interpretation. In the interpretation and application of these regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

(i) Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Clayton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

(j) Severability. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. O-05-05-08. Passed 7-7-05.)

1335.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure.

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Appeal.

A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.

Base Flood.

The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.

Base (100-Year) Flood Elevation (BFE).

The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

Basement.

Any area of the building having its floor subgrade (below ground level) on all sides.

Development.

Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Enclosure Below the Lowest Floor.

See "Lowest Floor."

Executive Order 11988(Floodplain Management).

Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

Federal Emergency Management Agency (FEMA).

The agency with the overall responsibility for administering the National Flood Insurance Program.

Fill.

A deposit of earth material placed by artificial means.

Flood or Flooding.

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM).

Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

Flood Insurance Rate Map (FIRM).

An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

Flood Insurance Risk Zones.

Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

Zone A:

Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

Zones A1-30 and Zone AE:

Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

Zone AO:

Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

Zone AH:

Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

Zone A99:

Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

Zone B and Zone X (shaded):

Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone C and Zone X (unshaded):

Areas determined to be outside the 500-year floodplain.

Flood Insurance Study (FIS).

The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps) and the water surface elevations of the base flood.

Flood Protection Elevation.

The Flood Protection Elevation, or FPE, is the base flood elevation plus 18 inches of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

Floodway.

A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

Freeboard.

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Historic structure.

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation office.
- (4) Individually listed on the inventory of historic places maintained by the City of Clayton, Ohio whose historic preservation program has been certified by the Ohio Historic Preservation office.

Hydrologic and hydraulic engineering analysis.

An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

Letter of Map Change (LOMC).

A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

Letter of Map Amendment (LOMA).

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR).

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

Conditional Letter of Map Revision (CLOMR).

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Lowest floor.

The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Manufactured home.

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

Manufactured home park.

As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

National Flood Insurance Program (NFIP).

The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

New construction.

Structures for which the "start of construction" commenced on or after the initial effective date of the City of Clayton Flood Insurance Rate Map and includes any subsequent improvements to such structures.

Person.

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the General Assembly, the Controlling Board, the Adjutant General's Department, or any court.

Recreational vehicle.

A vehicle which is:

- (1) Built on a single chassis,
- (2) 400 square feet or less when measured at the largest horizontal projection,
- (3) Designed to be self-propelled or permanently towable by a light duty truck, and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Registered Professional Architect.

A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Ohio Revised Code.

Registered Professional Engineer.

A person registered as a professional engineer under Chapter 4733 of the Ohio Revised Code.

Registered Professional Surveyor.

A person registered as a professional surveyor under Chapter 4733 of the Ohio Revised Code.

Special Flood Hazard Area.

Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal, state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

Start of construction.

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

Structure.

A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

Substantial Damage.

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement.

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

- (1) Any improvement to a structure which is considered "new construction;"
- (2) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (3) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance.

A grant of relief from the standards of these regulations consistent with the variance conditions herein.

Violation.

The failure of a structure or other development to be fully compliant with these regulations. (Ord. O-05-05-08. Passed 7-7-05.)

1335.03 ADMINISTRATION.

(a) **Designation of the Floodplain Administrator.** The Director of Zoning and Code Enforcement is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

(b) **Duties and Responsibilities of the Floodplain Administrator.** The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Evaluate applications for permits to develop in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
- (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.

- (6) Enforce the provisions of these regulations.
- (7) Provide information, testimony, or other evidence as needed during variance hearings.
- (8) Coordinate map maintenance activities and FEMA follow-up.
- (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(c) **Floodplain Development Permits.** It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1335.01(f), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(d) **Application Required.** An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- (2) Elevation of the existing, natural ground where structures are proposed.
- (3) Elevation of the lowest floor, including basement, of all proposed structures.
- (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Section 1335.04(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1335.04(d)(5) are designed to automatically equalize hydrostatic flood forces.
 - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1335.04(i)(3).

- D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1335.04(i)(2).
 - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1335.04(i)(1).
 - F. Generation of base flood elevation(s) for subdivision and large scale developments as required by Section 1335.04(c).
- (6) A Floodplain Development Permit Application Fee set by the schedule of fees and adopted by the City of Clayton Council.
- (e) Review and Approval of a Floodplain Development Permit Application.
- (1) Review.
 - A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in subsection (d) hereof has been received by the Floodplain Administrator.
 - B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.
 - (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.
- (f) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(g) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:

- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- (2) For all development activities subject to the standards of subsection (j)(1) hereof, a Letter of Map Revision.

(h) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the City of Clayton Board of Zoning Appeals in accordance with Section 1335.05 of these regulations.

(i) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:

- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
- (3) Major utility facilities permitted by the Ohio Power Siting Board under Chapter 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Chapter 3734 of the Ohio Revised Code.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive order 11988 - Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

(j) Map Maintenance Activities. To Meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Clayton flood maps, studies and other data identified in Section 1335.01(f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

- (1) Requirement to submit new technical data.
 - A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1335.04(c).
- B. It is the responsibility of the applicant to have technical data, required in accordance with subsection (j)(1) hereof, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
1. Proposed floodway encroachments that increase the base flood elevation; and
 2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to subsection (j)(1)A. hereof.
- (2) Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Director of Zoning and Code Enforcement of the City of Clayton, and may be submitted at any time.
- (3) Annexation / detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Clayton have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Clayton's Flood Insurance Rate Map accurately represent the City of Clayton boundaries, include within such notification a copy of a map of the City of Clayton suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Clayton has assumed or relinquished floodplain management regulatory authority.

(k) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

- (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
- (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
- (3) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:
 - A. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
 - B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
- (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1335.05, Appeals and Variances.
- (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

(l) Substantial Damage Determinations. Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:

- (1) Determine whether damaged structures are located in special flood hazard areas;
- (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- (3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.
(Ord. O-05-05-08. Passed 7-7-05.)

1335.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1335.01(f) or 1335.03(k)(1):

- (a) Use Regulations.
 - (1) Permitted uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Clayton are allowed provided they meet the provisions of these regulations.
 - (2) Prohibited uses.
 - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Chapter 3701 of the Ohio Revised Code.
 - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Chapter 3734 of the Ohio Revised Code.
- (b) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
 - (2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
 - (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.
- (c) Subdivisions and Large Developments.
 - (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.

- (5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1335.03(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by subsection (c)(4) hereof.
- (d) Residential Structures.
- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (subsection (d)(1) hereof) and construction materials resistant to flood damage (subsection (d)(2) hereof) are satisfied.
- (2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- (3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
- A. Be used only for the parking of vehicles, building access, or storage; and
 - B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of subsection (d) hereof.
- (e) Nonresidential Structures.
- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection (d)(1) to (3) and (5) to (7).
- (2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
- A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- C. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Floodproofing Certificate, that the design and methods of construction are in accordance with subsection (e)(2)A. and B. hereof.
- (3) Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (f) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
- (1) They shall not be used for human habitation;
- (2) They shall be constructed of flood resistant materials;
- (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
- (4) They shall be firmly anchored to prevent flotation;
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- (6) They shall meet the opening requirements of subsection (d)(5)C. hereof.
- (g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
- (1) They shall not be located on sites in special flood hazard areas for more than 180 days, or
- (2) They must be fully licensed and ready for highway use, or
- (3) They must meet all standards of subsection (d) hereof.

- (h) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (i) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
- (1) Development in floodways.
- A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
- B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
1. Meet the requirements to submit technical data in Section 1335.03(j)(1);
 2. An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 3. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;
 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 5. Concurrence of the City Manager of the City of Clayton, Ohio and the Chief Executive officer of any other communities impacted by the proposed actions.
- (2) Development in riverine areas with base flood elevations but no floodways.
- A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
- B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 2. Section 1335.04(i)(1)B., items 1. and 3. to 5.
- (3) Alterations of a watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites. An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
- A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
 - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Clayton specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
 - D. The applicant shall meet the requirements to submit technical data in Section 1335.03(j)(1)A.3. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.
(Ord. O-05-05-08. Passed 7-7-05.)

1335.05 APPEALS AND VARIANCES.

- (a) Appeals Board Established.
- (1) The Clayton Board of Zoning Appeals shall serve as the Appeals Board for the purposes of these regulations.
 - (2) Meetings of the Appeals Board shall be held as needed and shall be held as needed and shall be held at the call of the Chairperson, or in his absence, the Acting Chairperson. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasijudicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in the Clayton Administration Building.

(b) Powers and Duties.

- (1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- (2) Authorize variances in accordance with subsection (d) hereof.

(c) Appeals. Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within twenty (20) days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application for a variance.

- A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
 - B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
 - C. All applications for a Variance shall be accompanied by a Variance application fee set in the schedule of fees and adopted by the City of Clayton, Ohio Council.
- (2) Notice for public hearing. The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

- (3) A. Public hearing. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:
1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger to life and property due to flooding or erosion damage.
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 4. The importance of the services provided by the proposed facility to the community.
 5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 6. The necessity to the facility of a waterfront location, where applicable.
 7. The compatibility of the proposed use with existing and anticipated development.
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- B. Variances shall only be issued upon:
1. A showing of good and sufficient cause.
 2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 4. A determination that the structure or other development is protected by methods to minimize flood damages.
 5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

(4) Other conditions for variances.

- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (d)(3)A.1. to 11. hereof have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(e) Procedure at Hearings.

- (1) All testimony shall be given under oath.
- (2) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- (3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- (4) The Administrator may present evidence or testimony in opposition to the appeal or variance.
- (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- (7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- (8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(f) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Montgomery County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

(Ord. O-05-05-08. Passed 7-7-05.)

1335.06 ENFORCEMENT.**(a) Compliance Required.**

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1335.03(i).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (c) hereof.
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with subsection (c) hereof.

(b) **Notice of Violation.** Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefor and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations,
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(c) **Violations and Penalties.** Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a misdemeanor of the third degree. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Clayton, Ohio. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Clayton, Ohio from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Clayton, Ohio shall prosecute any violation of these regulations in accordance with the penalties stated herein.

(Ord. O-05-05-08. Passed 7-7-05.)

CHAPTER 1337
Pre-Sale Inspection and Certificate of Occupancy

<p>1337.01 Pre-sale inspection and Certificate of Occupancy required.</p> <p>1337.02 Responsibility for correcting defective items.</p> <p>1337.03 Unpaid charges to be paid immediately as condition of certificate of occupancy.</p> <p>1337.04 Certificate of occupancy required for new owner.</p>	<p>1337.05 Disclosure of violations to new owner.</p> <p>1337.06 Fees for inspection and certificates of occupancy.</p> <p>1337.07 Appeals.</p> <p>1337.99 Penalty.</p>
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1337.01 PRE-SALE INSPECTION AND CERTIFICATE OF OCCUPANCY REQUIRED.

(a) It shall be unlawful for the owner of any real estate premises to sell, transfer, rent or lease a property without having obtained a pre-sale exterior inspection of it under this chapter. A pre-sale exterior inspection shall also be conducted upon an occupancy change, but in no case more than once during any twelve (12) month period. This inspection will enable the code official to work toward accomplishing the purposes of this chapter by identifying any repairs or other work necessary to eliminate any unsafe or hazardous conditions, to comply with applicable requirements of the Zoning Code, Property Maintenance Code and other ordinances of the City of Clayton, and also to correct any unlawful nuisance conditions in the form of violations of the Property Maintenance Code. Such inspection and list of violations shall be part of the process of issuing the required certificate of occupancy. No person shall sell or receive a commission or fee from the sale, rental or lease of any real property in this City without a valid certificate issued hereunder.

- (1) Apartment complexes of more than four (4) units shall be exempt from the requirements of this chapter.
- (2) New construction shall be exempt from the requirements of this chapter.
- (3) "New construction" is defined as: Structures for which the "start of construction" commenced on or after the initial effective date of this chapter.
- (4) "Start of construction" is defined as: The date the building permit was issued, provided the actual start of construction was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

(b) Application for a pre-sale inspection shall be made on such forms and in such manner as may be prescribed from time to time by the code official. The fee schedule is itemized under Section 1337.06 hereof.

(c) If the owner, occupant, or agent thereof does not consent to the proposed inspection, the code official may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the denied consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the code provisions identified herein.

The Court may consider any of the following factors and any other such matters it deems pertinent in its decision as to whether a warrant shall issue:

- (1) Eyewitness account of violation;
- (2) Citizen complaints;
- (3) Tenant complaints;
- (4) Plain view violations;
- (5) Violations apparent from city records;
- (6) Property deterioration;
- (7) Age of property;
- (8) Nature of alleged violation;
- (9) Condition of similar properties in the area;
- (10) Passage of time since last inspection;
- (11) Previous violations on the property.

If a warrant is issued, no owner, occupant or agent thereof shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the code official or his or her duly authorized designee for the purpose of completing exterior inspection pursuant to this section of the Code and consistent with the warrant terms. If the Court declines to issue a warrant or no warrant is requested, the scope of the exterior inspection shall be limited to such areas as are in plain view. A certificate of occupancy issued upon a plain view inspection shall note that fact and shall not constitute evidence of code compliance as to any uninspected portion of the premises.

(d) Results of the Inspection:

- (1) Within two (2) working days of receipt by the code official of an application for a pre-sale inspection and payment of the required fee, the code official or other designated City representative, will contact the property owner to schedule the inspection. This period of time may be extended by the code official if a delay is caused by any matter beyond the reasonable control of the official. The code official will inspect the entire exterior of the property, including but not limited to, all structures, fencing, stairways, pools and vegetation.
- (2) If violations are found during the inspection, no certificate of occupancy shall be issued until the listed violations are corrected or the property is otherwise brought into compliance with the City Zoning and Property Maintenance Codes. A letter itemizing the violations together with a Transfer of Responsibility Agreement form shall be sent to the owner or his or her representative. A prospective owner may assume responsibility for correction of the noted violations by completing the Transfer of Responsibility Agreement. A conditional certificate of occupancy will be issued within five (5) working days of receipt of the Transfer of Responsibility Agreement. A certificate of occupancy will be issued upon correction of the violations and final approval by the City. Responsibility for correcting rental property violations cannot be transferred to a tenant.

- (3) Within two (2) working days of completing a satisfactory inspection, the code official will issue a certificate of occupancy. This period of time may be extended by the code official if a delay is caused by any matter beyond the reasonable control of the official.
In the case of a rental property involving a change of tenant, the certificate of occupancy shall be issued to the owner in the name of both the owner and the new occupant.
- (e) Certificate of Occupancy:
- (1) A certificate of occupancy (other than a conditional certificate of occupancy issued under Section 1337.01(c)(2)) shall be valid for 12 months from the date of issuance.
- (2) A certificate of occupancy signed by the code official shall be evidence that the premises comply with the requirements of this chapter and all other applicable ordinances of the City of Clayton. But, pre-sale inspections by the City will not necessarily relate to adequacy of construction or soundness of structure and do not replace the need for a whole house inspection by a professional home inspector.
(Ord. 0-09-17-20. Passed 9-21-17.)

1337.02 RESPONSIBILITY FOR CORRECTING DEFECTIVE ITEMS.

(a) The responsibility for making repairs or completing such work as may be necessary to correct any defective aspects of the premises shall rest upon the person who was the owner immediately prior to the inspection.

(b) It is the current property owner's responsibility to have the violations corrected unless the new owner is willing to formally assume such responsibility by signing the Transfer of Responsibility Agreement provided. A copy of this Transfer of Responsibility Agreement must be provided to the City of Clayton. If the responsibility is assumed by the new owner, he or she will be obligated to repair or correct all of the violations noted by the City of Clayton Inspector in the time determined by the City of Clayton Inspector.
(Ord. 0-09-17-20. Passed 9-21-17.)

1337.03 UNPAID CHARGES TO BE PAID IMMEDIATELY AS CONDITION OF CERTIFICATE OF OCCUPANCY.

To obtain a certificate of occupancy, all unpaid charges owed to the City of Clayton related to the property (other than those assessments that have become liens as a result of legislative action by the City of Clayton) must be paid in full.
(Ord. 0-09-17-20. Passed 9-21-17.)

1337.04 CERTIFICATE OF OCCUPANCY REQUIRED FOR NEW OWNER.

It shall be unlawful for any person who acquires legal or equitable title to a premises (after the date this chapter is adopted) to occupy or use it without having obtained from the code official or the previous owner a valid certificate of occupancy for that premises.
(Ord. 0-09-17-20. Passed 9-21-17.)

1337.05 DISCLOSURE OF VIOLATIONS TO NEW OWNER.

It shall be unlawful for the owner of any property upon whom a notice of violation has been served (in form of a list of defects or violations noted by the code official) to transfer legal or equitable ownership of the property to another until the defects and violations listed in that notice have been corrected or Transfer of Responsibility Agreement has been executed by the buyer and the seller.
(Ord. 0-09-17-20. Passed 9-21-17.)

1337.06 FEES FOR INSPECTION AND CERTIFICATES OF OCCUPANCY.

(a) Fees to be charged for pre-sale inspections and follow-up inspection for the issuance of certificates of occupancy shall be as follows:

(b) The fee for one, two and three family dwellings, for which a certificate of occupancy is required, shall be fifty dollars (\$50.00) per principal structure. If the dwelling fails to meet the zoning and property maintenance standards at the first inspection, a follow-up inspection will be included in the initial fifty dollar (\$50.00) fee charged. For any subsequent inspections, the fee shall be one hundred and fifty dollars (\$150.00) per principal structure.

(c) The fee for four or more family dwellings, for which a certificate of occupancy is required, shall be the greater of either one hundred dollars (\$100.00) per principal structure or twenty-five dollars (\$25.00) per dwelling unit. If a dwelling fails to meet the zoning and property maintenance standards at the first inspection, a follow-up inspection will be included in the initial fee charged. For any subsequent inspections, the fee shall be two hundred and fifty dollars (\$250.00) per dwelling unit requiring re-inspection.

(d) Fees may be modified with approval of City Council.
(Ord. 0-09-17-20. Passed 9-21-17.)

1337.07 APPEALS.

If the owner objects to the violations identified by the code official or the fees charged, an appeal may be made to the City Manager in writing no later than five (5) working days after receipt by the owner of notification of the violations identified. The City Manager shall issue his determination in writing no later than five (5) working days of his receipt of the appeal. These periods of time may be extended by the City Manager if a delay is caused by any matter beyond the reasonable control of the code official or City Manager.

(Ord. 0-09-17-20. Passed 9-21-17.)

1337.99 PENALTY.

(a) Violations. Whoever commits any violation(s) of Sections 1337.02, 1337.04 and/or Section 1337.05 hereof is guilty of a minor misdemeanor.

(b) Continuing Violations. Each violation of Sections 1337.02, 1337.04 and/or Section 1337.05 of this chapter shall constitute a separate and distinct violation independent of any other section or subsection of this chapter. Each day's failure to comply shall constitute a separate violation.

(Ord. 0-09-17-20. Passed 9-21-17.)