CHAPTER 1311. EXTERIOR PROPERTY MAINTENANCE CODE

1311.01. Scope.

This Exterior Property Maintenance Code is limited to the establishment of minimum standards for the maintenance of exterior surfaces and exterior functioning units of all structures, buildings, and uses within the City, including lot and yard areas within the City. No provisions of this Code shall, in any way, directly or indirectly, be interpreted to interfere with, or to limit the right of any owner or resident to inhabit real property owned or leased by them in such a manner and form as they may determine appropriate, consistent with other applicable provisions of law. This Code is directed to obvious exterior visual conditions which may lead to the violation of this Code within the City.

1311.02. Purpose.

The purpose of this Code is to protect the public health, safety, and welfare by establishing a minimum standard governing the maintenance, appearance, and exterior condition of all premises and uses throughout the City of Delaware; to fix certain responsibilities and duties upon owners, residents, and managers of the same as to both separate and correlative responsibilities and duties; to authorize and establish procedures for the exterior inspection of such premises and uses; to affix penalties for the violations of this Code; and to provide a process for the repair, demolition, or vacation of premises unfit for human habitation, occupancy, or use. This Code is hereby declared to be remedial and essential for the public interest, and it is intended that this Code be construed and interpreted to effectuate the purposes as stated herein.

1311.03. Severability.

Each chapter, section, paragraph, sentence, clause, phrase, or other divisible part of this Exterior Property Maintenance Code is hereby declared to be severable and if any such chapter, section, paragraph, sentence, clause, phrase, or other divisible part is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining chapters, sections, paragraphs, sentences, clauses, phrases, or other divisible part of this Chapter since the same would have been enacted without the incorporation into this Chapter of such unconstitutional or invalid chapter, section, paragraph, sentence, clause, phrase, or other divisible part.

1311.04. Applicability.

(a) Every building, residential structure, lot, and yard owner shall comply with the provisions of this Code, whether or not such building, lot, yard, or use shall have been constructed, altered, or repaired before or after the enactment of this Code, and without regard to any permits or licenses which shall have been issued for the use or occupancy of the building premises, for the construction or repair of the building or use, or for the installation or repair of equipment or facilities prior to the effective date of the Code.

(b) This Code establishes minimum standards for the initial and continued occupancy and use of all such structures and properties and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building. Where there is mixed occupancy, residential or nonresidential use shall be regulated by and subject to the provisions of this Code.

1311.05. Conflict of laws.

(a) 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, health, or other regulation, the provision of which establishes a higher standard for the promotion and protection of the safety and health, the conflicting provision shall prevail.

(b) In any case where a provision of this Exterior Property Maintenance Code conflicts with the International Property Maintenance Code as referenced in Chapter 1303 of the Codified Ordinances, this Exterior Property Maintenance Code shall prevail.

1311.06. Definitions.

For the purpose of this Code, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural shall include the singular; the word "building" shall include the word "structure", and the word "shall" is mandatory and not directory.

(a) "Animal waste" means feces, waste eliminated from the bowels; excrement. See also "garbage", "refuse", "rubbish" and "waste".

(b) “Commercial vehicles” means step or step up vans, heavy trucks, semi-trailers, truck tractors, tractor trailers, moving vans, delivery trucks, box trucks, dump trucks, tow trucks, wreckers, buses, school buses, cranes, draglines, earthmovers, bulldozers, backhoes, trenchers or similar vehicles. The term also applies to any commercial vehicles which are used or licensed as a recreational vehicle and any vehicles used as a platform to hoist cranes, compressors, tank(s), ladder trucks, or similar equipment or as a means of transporting or storing a commercial vehicle.

(c) "Deterioration" means the condition or appearance of the exterior of the building, or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect, or lack of maintenance.

(d) "Dilapidated" means having fallen into a state of disrepair or deterioration, as through neglect; broken-down and shabby.

(e) "Exterior of the premises" means those portions of a building which are exposed to public view and the open space of any premises outside of any building.

(f) "Final notice" means that a Notice of Violation has been served according to this Code, and the persons named have failed to comply within the time allowed.

(g) "Garbage" means food wastes, as from a kitchen. See also "animal waste", "refuse", "rubbish" and "waste".

(h) "Infestation" means the presence of insects, rodents, vermin, or other pests on the premises which constitute a health hazard as defined by the local health authority.

(i) “Junk vehicle” means a vehicle that meets one or more of the following:

(1) The vehicle is without a valid current registration and/or license plate;

(2) The vehicle is without or missing fully inflated tires, has missing wheels/motor/transmission, and/or lacks any type of support under it;

(3) The vehicle has a substantially damaged or missing windshield, door(s), motor, transmission, or other similar major part;

(4) The vehicle is motorized but is incapable of being moved under its own power;

(5) The vehicle is abandoned;

(6) The vehicle is primarily being used for the purpose of storage.

(j) “Junk” means scrap metal, vehicular parts, or any dismantled, partially dismantled, non-operative or discarded machinery, equipment, or part thereof. Any worn out, cast-off or discarded item, article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any item of tangible personal property designed to be used in an environment protected from the elements, such as inside a building, shall be presumed junk if the item is stored outside. Such items include, but are not limited to, mattresses, furniture, appliances, electronics, power tools, and clothing.

(k) “Native plant pollinator garden” means an intentionally installed and maintained area featuring plants native to the state of Ohio that support pollinators like bees, butterflies, and other insects.

(l) “Noxious weeds” means those plants listed in Chapter 901:5-37 of the Ohio Administrative Code, titled “Prohibited Noxious Weeds”.

(m) "Nuisance" means that which is defined by the statutes of the State of Ohio, including but not limited to Ohio R.C. 3767.41(2)(a). "Public nuisance" means a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

(n) "Occupancy" means any person living and/or sleeping in a dwelling unit or having an actual possession of said dwelling unit or any person who leases or rents a non-residential building, structure, or any portion thereof.

(o) "Owner" means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without the accompanying actual possession thereof; or shall have charge, care, or control as owner or agent of the owner; or as executor, administrator, trustee, receiver, or guardian of the estate, or as a mortgagee in possession.

(p) "Person" includes any individual, corporation, association, partnership, trustee, lessee, agent, or assignee.

(q) "Pests" means fungus, insect, nematode, rodent, weed or other form of terrestrial or aquatic life form that is injurious to human or farm animal health, or interferes with economic activities.

(r) "Premises" means a lot, plot, or parcel of land, including the buildings or structures thereon.

(s) "Refuse" means all solid wastes (except body wastes) including, but not limited to garbage, rubbish, ashes, dead animals, pet and animal wastes, industrial wastes, or the accumulation of brush, broken glass, stumps, and roots that present a safety hazard which present an objectionable odor, unsanitary and/or safety hazard. See also "animal waste", "garbage" "refuse" and "waste".

(t) "Rubbish" means solid waste consisting of both combustible and non-combustible wastes such as, but not limited to paper, wrappings, tin cans, rubber, wood, glass, crockery, plastics, and similar materials. See also "animal waste", "garbage", "refuse" and "waste".

(u) “Tarp” means a piece of material, typically water resistant or waterproof, designed for protecting exposed objects or areas. Materials may include, but not be limited to canvas, urethane coated polyester, and plastics.

(v) "Undergrowth" means the brush (small trees and bushes and ferns etc.) growing beneath taller trees in a wood or forest; low plants, saplings, and shrubs growing beneath the trees in a forest.

(w) "Waste" means comprised mainly of vegetable matter, which is capable of being decomposed by microorganisms. See also "animal waste", "garbage", "refuse" and "rubbish".

(x) "Weeds" means those plants listed in Chapter 901:5-37 of the Ohio Administrative Code, titled "Prohibited Noxious Weeds" and grass, brush vines, or other plants which may create, directly or indirectly, a health hazard or unsanitary condition.

1311.07. Enforcement.

(a) Enforcing Agency. The City of Delaware Planning and Community Development Department is the enforcing agency for this Code and the designated official in charge thereof shall be known as the "Code Official." The function of the agency shall be the implementation, administration, and enforcement of the provisions of this Code.

(b) Appointment. The Code Official shall be appointed by the Director of Planning and Community Development.

(c) Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the City Manager, the Director of Planning and Community Development shall have the authority to appoint a deputy code official, other related technical officers, inspectors, and other employees. Such employees shall have powers as delegated by the Code Official.

(d) Fees. All fees are established by Council and set forth in the City of Delaware Fee Schedule.

1311.08. Inspection.

Upon complaint filed with the City of Delaware, via either written or oral communication, or upon initiative of the Code Official, all buildings, premises, and uses within the City are subject to exterior inspections.

1311.09. Maintenance and responsibility.

(a) The owner and/or manager of every structure or use shall be responsible for maintaining the exterior surfaces of the same in conformance with the provisions of this Code.

(b) The owner and/or manager of every structure or use shall be responsible for maintaining the yard area contiguous thereto in conformance with the provisions of this Code.

(c) The owner and/or manager of every yard or lot shall be responsible for maintaining their yard and/or lot area in conformance with the provisions of this Code.

(d) No owner and/or manager shall be relieved from the obligations of, nor be entitled to defend, any violation by reason of any contract or agreement between them and any other person.

1311.10. General exterior maintenance requirements.

(a) The exterior surfaces of all structures or uses, whether functional or decorative, shall be maintained in good repair and structurally sound. Any exterior part or feature thereof having functional use shall be capable of performing the use for which such part or feature was designed.

(b) The entire yard area extending up to and including the lot line in all directions shall be in compliance with the definitions of this Chapter.

1311.11. Exterior surfaces.

(a) All exterior surfaces of every structure or use shall be maintained so as to resist decay or deterioration from any naturally occurring cause.

(1) Green moss covered or moldy exteriors shall be cause for cleaning.

(2) All exterior surfaces shall be covered with paint, finish, or other surface-coating so as to prevent such decay and deterioration.

(b) An exterior wall segment(s), facing, or other distinguishable surface area determined by the Code Official to have bare, peeling, flaking, pitted, or corroded areas, or otherwise showing deterioration, will require the wall segment(s), facing, or other distinguishable surface area to be surface coated in its entirety. If the surface to be coated is a portion of a larger structure, such surface coating shall be compatible in color, texture, and design with the entire structure.

(c) Any deteriorated or decayed exterior walls, doors, porches, floors, step railing, or parts or features thereof, shall be repaired or replaced.

(d) Any damaged or broken windows, screens, or shutters and deteriorated or decayed sill, sash, molding, lintel, frame, or trim thereof, shall be repaired or replaced.

1311.12. Foundations.

The foundation of every structure or use shall be maintained in such condition and repair as to prevent damage to the structural integrity of the same.

1311.13. Roofs, gutters, downspouts, and chimneys.

(a) The roof of every structure or use shall be maintained weather tight. All missing shingles, or other roofing materials, shall be replaced with materials of similar kind, nature, design, and color as the original thereof. If any roof segment(s), or distinguishable portion thereof, is determined by the Code Official to have missing or deteriorated shingles, or other roofing material, then the roof segment(s) or distinguishable portion thereof shall be replaced or repaired with materials of similar kind, nature, design, and color as the original thereof.

(b) Any structure or use having gutters and/or downspouts in place shall be maintained in such a manner as to keep such gutters and/or downspouts free of exterior rust, corrosion, and debris. Such rust, corrosion, and debris which may develop in the course of ordinary use of the same, shall be removed, painted, or otherwise surface coated as to keep such gutters and/or downspouts free of visible rust or corrosion.

1311.14. Yard area maintenance.

(a) Refuse.

(1) No furniture, mattresses, household furnishings, rugs, appliances, junk vehicles, or vehicle parts, machinery, and construction equipment, or construction equipment parts shall be placed or stored in any yard area or use.

(2) Exterior property areas of all premises or uses shall be kept free of debris, objects, materials, rubbish, garbage, refuse, animal waste, and infestations, or conditions that create a health, accident, or fire hazard, or are a public nuisance, or constitute a blighting or deteriorating influence on the neighborhood.

(b) Grass and Weeds. Premises and exterior property, including pavements, gutters, dedicated portions of the street, alley, easement, sidewalk or right-of-way abutting the owner's premises shall be maintained free from tall grass and weeds in excess of ten inches (10").

(1) For the purposes of this Code, grass and weeds which attain a height exceeding ten inches (10") in height constitute a health hazard.

(2) Notice to Cut. When the code official determines that such weeds and/or grass exist, notice shall be posted on the violating property, ordering the cutting and removal of such weeds, and/or noxious grasses. If the property is vacant, notice shall be mailed to the mailing address documented in the records of the County Auditor.

A. If the owner, occupant, or any other person, firm or corporation, having the care of the lands mentioned in Section 1311.14 (b), fails to comply with the notice provided within five (5) business

days, the City shall cause such noxious weeds and grass to be cut and removed. Such cutting and removal shall be at the owner's expense and the costs, together with an administrative fee as provided in the Fee Schedule in Section 197.02, shall be assessed against the lot or land.

B. Only one notice per calendar year is required for a lot or parcel. If, after a notice has been served in accordance with this section, the code official determines that a subsequent violation has occurred, the City may proceed with the remedy set forth in subsection 1311.14(b(2)(A) without further notice.

(3) This subsection shall not apply to premises or parts thereof on which such growth may be reasonably demonstrated to be used for agricultural, horticultural, or native plant pollinator spaces provided these uses meet the following requirements:

A. Do not encroach into a neighboring property, public right-of-way, or public sidewalks.

B. Do not contain any plants defined as weeds or noxious weeds.

C. Do not create a line-of-sight concern.

D. Are located within defined beds.

E. Have been registered with the Planning and Community Development Department.

(4) This subsection shall not apply to any undeveloped parcel over five (5) acres, which shall only require that the parcel be mowed fully once in the spring and once in the fall. The remainder of the year, a fifty- foot-buffer around the perimeter of the entire property shall be kept free of grass and weeds above ten (10) inches.

(c) Maintenance of Trees, Hedges, Vines, and Shrubbery. All vegetation including trees, hedges, vines, and shrubs, shall be maintained so as to not cause a line-of-sight concern, impede on neighboring properties, or block windows, egress doors, or garage doors.

(d) Accessory Structures and Fences.

(1) All structures or uses located in the yard areas such as sheds, barns, garages, bins, and the like, shall be maintained in good repair, structurally sound and in conformance with other provisions of this Code having regard to foundations, roofs, and exterior surfaces.

(2) Any broken, rusted, deteriorated, or decayed fence, yard enclosure, or other device or structure located in the yard area contiguous to any structure or use shall be maintained in the condition as intended. This includes but is not limited to leaning or damaged fences, fences missing slats, missing sections, broken supports or blocks or any other materials that are otherwise broken or damaged in such a way as to present a deteriorated or blighted appearance. All materials shall be uniform, compatible, and consistent with the design thereof.

(d) Ground Surface Hazards. Holes, cracks, excavations, breaks, projections, and obstructions at any place on the premises which are a hazard to persons using the premises shall not be permitted.

(e) Junk Vehicles. Except as provided for in other regulations, junk vehicles as defined in this Chapter shall not be parked, kept, or stored on any premises outside of a fully enclosed building, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

(1) Only car covers purposefully designed and formed to fit a vehicle may be used to screen any junk, inoperable, or unlicensed motor vehicle.

(f) Parking and Storage of Vehicles.

(1) Commercial, Construction, and Industrial Vehicles and Equipment.

A. The overnight parking or storage outside a fully enclosed building of any commercial vehicle is prohibited within any residentially zoned districts or on any lot used for residential purposes.

B. The overnight parking or storage of heavy trucks, semi-trailers, truck tractors, tractor trailers or similar vehicles is prohibited within any commercially zoned district or on any lot used for commercial purposes, except in areas designated and provided for standing, loading and unloading services.

C. The overnight parking outside of a fully enclosed building of any commercial vehicle within any commercial district is prohibited, with the exception of vehicles owned by the business and vehicles making scheduled deliveries to the commercial property.

(2) Recreational vehicles. All recreational vehicles stored or parked within the city, other than those districts in which the commercial storage of recreational vehicles is permitted, shall be in accordance with the following regulations:

A. No recreational vehicle shall be used for living or sleeping when parked or stored on a residential lot.

B. No more than two recreational vehicles are permitted to be located on a lot outside of a fully enclosed building.

C. Recreational vehicles parked or stored shall not be connected to any utilities other than for maintenance purposes.

D. Excluding the use of existing nonconforming gravel driveways, as described in (4)(A), all recreational vehicles, visiting or otherwise, shall be wholly parked in a parking area or driveway of Portland cement concrete, bituminous/asphalt concrete or continuous brick paver surface and in a manner so as to not obstruct the view of traffic.

(3) Yard Parking. No person shall park or leave unattended, or cause to leave parked or unattended, any vehicle wholly or partially within any yard of any residential or commercial property unless such vehicle is wholly within a driveway or parking area.

(4) Driveways and/or parking areas must be constructed of an improved surface and shall be maintained in a good state of repair. New residential structures must have the driveway paved within six months of receiving a certificate of occupancy from the Building Department.

A. All driveways and/or parking areas must be constructed by using standard engineering practices for the purposes of accommodating vehicular parking, ingress and egress to the property. Existing driveways and/or parking areas of gravel or similar materials may be maintained as a gravel driveway so long as the area of the driveway and/or parking area is not expanded.

B. If any part of the driveway and/or parking area is expanded, the full driveway and/or parking area shall be constructed of an improved surface and shall be maintained in a good state of repair. New driveways must conform to the requirements of 1130.04 (d) & (m) of the Planning and Zoning Code.

C. In the event that frequent trips through any yard created an unpaved driveway, evidenced by the creation of a drive path, the activity must cease and the lawn must be repaired, or said area must be paved in compliance with this section.

D. This section does not apply during times of emergency due to acts of nature, as determined by the City Manager, including but not limited to the following situations: to accommodate vehicles of

persons visiting a home for not more than 72 hours, and/or during the time that a resident is moving in or out of a residence.

(5) Trailers. Trailers of any kind shall meet all requirements of division (4) above and shall be limited to no more than two trailers and/or recreational vehicles outside of a fully enclosed building, within residential districts.

(g) Storage of Construction Materials. With the exception of approved storage yards, construction materials shall not be stored outside of a fully enclosed building unless used for an ongoing project for no longer than 120 days.

(h) Storage of Firewood. Firewood may be stored upon residential property solely for use on the premises and not for resale. Firewood stored outdoors on a residential property shall be stored in the following manner:

(1) Cut/split and prepared for use.

(2) In neat, stable, and secure stacks not exceeding five feet (5') in height and 48 inches in width.

(3) Not stored in the front yard.

(4) Not in a deteriorating, mold-producing, or rotting state.

(i) Use of Tarps. The use of tarps for building and roof repairs shall not exceed sixty (60) days. Tarps shall not be used for screening, enclosures, awnings, or the covering of vehicles, outdoor items, or junk with the exceptions of the storage of firewood as set forth in Section 1311.14(g).

(g) Lawns. On developed parcels, lawns must be established and maintained in areas surrounding structures or any area not covered by landscaping, gardens, driveways, and/or parking areas in order to prevent erosion of soil.

(h) Outdoor Furniture. No person shall place, use, keep, store, sell, collect, leave, permit, or maintain or suffer to remain outdoors any couches, chairs, tables, mattresses, rugs, or other furniture or appliances not expressly manufactured for outdoor use in any yard, porch, balcony, roof, or any other area outside of a building not fully enclosed on four sides by a combination of walls, windows, or screens designed to keep insects and water intrusion out but permit airflow, except that the following shall be exempt from these provisions:

(1) Furniture or appliances placed in the required outdoor location allocated for the collection of garbage, or refuse or recyclable materials, in accordance with the requirements of the City of Delaware garbage, refuse and recycling service, for the purpose of having such furniture removed from the premises.

(2) Furniture or appliances temporarily placed in an outdoor location to be offered for sale, with the following conditions:

A. Such furniture or appliance is offered for sale as part of a garage, yard, or other home sale in accordance with and as authorized by the Codified Ordinances of the City of Delaware.

B. Such furniture or appliance shall only be placed outside during the hours of 8:00 a.m. and 6:00 p.m.

C. No more than one sign not exceeding one square foot in area is placed on or in close proximity to such furniture explicitly indicating that it is for sale.

D. No furniture or appliance shall be offered for sale separate from a garage, yard, or other home sale as authorized by the Codified Ordinances of the City of Delaware by the same person, group, or Civic Association or on the same property longer than three consecutive days at any time and no more than three times in a calendar year.

E. No furniture or appliance shall be allowed to be rained on, snowed on, or otherwise become inundated with water or other liquid either by act of nature or human activity.

(i) Swimming Pools, Spas, and Hot Tubs.

(1) Swimming pools, spas, and hot tubs shall be maintained in a clean and sanitary condition, and in good repair.

(2) Enclosures. Private swimming pools, hot tubs, and spas greater than twelve feet (12') in diameter shall be enclosed by a fence or other proper barrier and maintained in accordance with Section 1130.04 (k) of the Planning and Zoning Code.

(j) Keeping of Beehives. The keeping of honeybees in single-family residential and agricultural areas is permitted under the following conditions:

(1) Beehives shall not be permitted on lots less than 7,500 square feet. No more than four hives shall be kept on lots between 7,500 and 15,000 square feet. Additional hives may be added on lots greater than 15,000 square feet, at the rate of one additional hive per 5,000 square feet. On larger lots, so long as all hives are situated at least 200 feet from any property line, there shall be no maximum number of hives.

(2) Hives shall not be located within 20 feet of any property line and must be located in the rear yard. Where a hive is situated within 50 feet of a property line, the beekeeper shall establish and maintain a flyway barrier, which must be six feet in height from adjacent grade, consisting of a solid wall, privacy fence, or dense shrubs, that is parallel to the property line so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the hive. Hives that are situated ten feet or more above the grade of the nearest property line are exempted from the required flyway. All hives shall be situated on the property so the front of the hive faces away from the nearest adjacent property.

(3) The owner/operator of the hive(s) must be a resident in a dwelling located on the same lot on which the hive(s) are registered and operated.

(4) Colony registration required. All colonies must be registered with the Ohio Department of Agriculture pursuant to R.C. § 909.02 and/or all applicable state and other governmental agencies. Each hive shall be marked with the owner's approved apiary identification number, as assigned by the Ohio Department of Agriculture, clearly visible on the outside of the hive, without having to move or lift the hive.

(5) Maintenance of colonies. The maintenance of each colony shall meet the following conditions:

A. Colonies shall be maintained in movable frame hives;

B. Adequate space shall be maintained in the hive to prevent overcrowding and swarming;

C. Colonies shall be re-queened following any swarming or aggressive behavior. No Africanized bees shall be intentionally introduced into the hives. Should Africanized bees be found dwelling in any hive, the owner/operator shall take immediate action to eradicate the Africanized bees as swiftly as possible.

D. A convenient source of water shall be made available to the bees at all times and shall be located within 15 feet of all hives on the property. This will reduce their dependence on other water sources where they may interfere or have unnecessary contact with humans, birds, or domestic pets.

(6) Enforcement. Enforcement of this provision shall commence immediately with all existing hives to be brought into conformance within 12 months of the date of this section.

(k) Pursuant to and consistent with Chapter 1149 of the Planning and Zoning Code, those small animals and birds listed in Section 1138.05 shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards. Furthermore, such animals and birds shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.

1311.15. Infestation.

All structures, and the premises thereof, shall be maintained free of vermin, rodents, and other pests, and free of sources of breeding, harborage, and infestation by such vermin, rodents, and other pests.

(1) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements of the local health authority.

(2) Grounds shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

(3) Storage areas shall be maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least eighteen (18) inches above the ground.

(4) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

(5) The growth of brush, weeds, and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Grounds shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered to be detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

1311.16 Notice of violation.

(a) Unlawful Acts. It shall be unlawful for a person, firm, or corporation to be in conflict with or in violation of any of the provisions of this Code.

(b) Notice of Violation. Whenever the Code Official determines that a violation of any provision of this Code exists, a notice of violation shall be issued. Such notice of violation shall:

(1) Be in writing;

(2) Identify the violation;

(3) Include a statement of the reason or reasons why the notice of violation is being issued and refer to the sections of this Chapter being violated;

(4) Advise the individual of the right to appeal the notice of violation to the Board of Zoning Appeals as set forth in Section 1311.17; and

(5) State the date by which the violation shall be corrected and provide a reasonable time in which to correct the violation.

(c) Service of a notice of violation shall be by either:

(a) Posting in a conspicuous place on the occupied premise; or

(b) Personal delivery to the person or persons responsible; or

(c) Certified mail addressed to the person or persons responsible at the last known address.

(d) Prosecution of Violation. Any person who shall violate a provision of this Code or fails to comply with a notice of violation or order served in accordance with this Code, or with any requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. A violation shall be classified as a minor misdemeanor for the person's first offense and shall be classified as a fourth-degree misdemeanor for every subsequent offense.

(e) City's Right to Abatement of Violation. The imposition of the penalties herein prescribed shall not preclude the Director of Planning and Community Development, Code Official, or City Attorney from instituting appropriate action to restrain, correct or abate a violation, or to abate a public nuisance or other condition in violation of any of the Codified Ordinances that poses a threat to the public health, safety and welfare, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business or utilization of the building, structure, or premises as set forth in this Code or any of the Codified Ordinances, or through any other action or remedy available at law or in equity.

1311.17. Appeals.

The Board of Zoning Appeals shall serve as the Board of Appeals for this Chapter. Appeals may be brought by any person, or by any government officer, board, or department of the City, deeming themselves to be adversely affected by a final decision of the Director of Planning and Community Development, Code Official, or by any administrative officer of the City deciding matters relating to this Code.

(a) Initiation of Appeal. Applications for appeal shall be filed with the Director of Planning and Community Development upon the forms provided, within thirty (30) days after the date of any adverse final order, requirement, decision, or determination. Failure to file a notice of appeal within such thirty (30) days shall constitute a waiver of the right of appeal. The application for appeal shall include reference to the final decision and the provision of this Zoning Ordinance from which the appeal is sought, and reasons for the appeal as well as all requirements set forth in the application checklist on file in the Planning and Community Development Department, unless items are determined by the Director to be inapplicable and are waived. The Director of Planning and Community Development shall transmit to the Board the record upon which the action appealed was taken from.

(b) Public Hearing by the Board. When an application for appeal has been filed in proper form and the application fee has been paid, the Director of Planning and Community Development shall immediately place the request upon the calendar for public hearing before the Board of Zoning Appeals. The Board of Zoning Appeals shall hold such public hearing within forty-five (45) days after the receipt of an application for an appeal from the Director of Planning and Community Development or applicant. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person in interest may appear at the public hearing in person, by agent, or by attorney.

(c) Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Planning and Community Development from whom the appeal is taken certifies to the Board, after the notice has been filed with him or her, that by reason of facts stated in the certificate of building and zoning compliance, a stay would in his or her opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order, which may be granted by the Board or by a competent court having lawful jurisdiction.

(d) Review by the Board. The Board of Zoning Appeals shall review the appeal. The Board may call upon the City Manager for assistance from City departments and professional consultants in performance of its duties. Such City departments or consultants shall render such assistance to the Board as may reasonably be required.

(e) Decision by the Board. Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed, and to that end shall have all the powers of the officers from whom the appeal is taken, and it may direct the issuance of a permit or certificate.

(1) Within forty-five (45) days after the public hearing, unless an extended period of time is mutually agreed upon by the applicant and the Board, the Board of Zoning Appeals shall either approve, approve with supplemental conditions, or disapprove the request for appeal. If the Board fails to act within such period of time, the appellant may determine the appeal has been constructively denied and pursue any available remedies at law or in equity.

(2) A certified copy of the Board's decision shall be transmitted to the applicant, or appellant, and a copy shall be filed with the Director of Planning and Community Development.

(3) Any person(s) aggrieved by the decision of the Board may appeal to the Court of Common Pleas of Delaware County within thirty (30) days after the filing of the Board's decision.

1311.18. Abatement procedures.

The imposition of the penalties herein prescribed shall not preclude the Director of Planning and Community Development, Code Official, or City Attorney from instituting appropriate action to restrain, correct or abate a violation or failure to comply with this Code, according to the following procedures:

(a) Abatement Procedure for Non-Motor Vehicle Nuisances. The Code Official shall authorize the removal of junk or noxious weeds at the expense of the property owner together with an administrative fee as established by the City of Delaware Fee Schedule.

(b) Abatement Procedure For Motor Vehicle Nuisances. Upon information that a Final Notice involving a motor vehicle nuisance has not been complied with, the Code Official will advise the City Attorney. The City Attorney will authorize the Code Official, Police Department, and/or appropriate City officials to remove or direct the removal of the motor vehicle for purposes of impounding the motor vehicle.

(1) Whenever the City impounds a motor vehicle in violation of this Chapter, as authorized herein, the Code Official shall, in a timely manner, give or cause to be given notice in writing to the owner of the fact of such impoundment and the reasons therefore and the place to which the vehicle has been removed.

1311.19. Certification to Delaware County Auditor.

If the bill for abatement or correction is not paid within thirty (30) days after submission, City Council shall certify said costs, together with any administrative fees and penalties, to the Delaware County Auditor for placement on a tax duplicate to be collected as other taxes for return to the City, as per this Chapter and a lien shall be assessed upon the property from the date of certification.