

ORDINANCE 2012-09

AN ORDINANCE RELATING TO PROPERTY STANDARDS AND ENFORCEMENT; REPEALING SECTIONS 7-180 THROUGH 7-188, INCLUSIVE, SECTIONS 12-36 THROUGH 12-41, INCLUSIVE, AND 12-71 THROUGH 12-79, INCLUSIVE OF THE LAKE WALES CODE OF ORDINANCES; ESTABLISHING THE MINIMUM REGULATIONS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES IN THE CITY; PROVIDING THE STANDARDS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; PROVIDING FOR THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY; AUTHORIZING THE CITY'S CODE ENFORCEMENT BOARD TO HEAR APPEALS OF CHAPTER 12 ADMINISTRATIVE ABATEMENT ORDERS; GIVING CHAPTER 12 ABATEMENT LIENS SPECIAL ASSESSMENT STATUS AND SUPER-PRIORITY; AUTHORIZING THE CITY COMMISSION TO COLLECT CODE ENFORCEMENT SPECIAL ASSESSMENT LIENS ON PROPERTY TAX BILLS; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, CONTINUANCE OF LEGAL ACTIONS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Lake Wales Code of Ordinances establishes minimum housing standards of the city as articulated by the 1994 "Standard Housing Code" (as amended), published by "Southern Building Code Congress International" ("SBCCI"); and

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

WHEREAS, the IPMC prescribes minimum maintenance standards for both residential and commercial structures and buildings; and

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

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

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

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

NOW THEREFORE, BE IT ENACTED BY the City Commission of the City of Lake Wales:

SECTION 1. Chapter 12 of the Lake Wales Code of Ordinances is renamed to read:

CHAPTER 12, HEALTH, SANITATION, NUISANCES, AND MINIMUM PROPERTY MAINTENANCE STANDARDS

SECTION 2. Sections 7-180 through 7-188, inclusive, of the Lake Wales Code of Ordinances existing as of the day before Second Reading and adoption of this Ordinance are hereby repealed in their entirety.

SECTION 3. Chapter 12, Article IV, of the Lake Wales Code of Ordinances is enacted to read as follows:

Sec. 12-226. International Property Maintenance Code adopted.

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

SECTION 4. Section 12-227 of the Lake Wales Code of Ordinances is enacted to read:

Sec. 12-227. Conflicts.

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

SECTION 5. Section 12-228 of the Lake Wales Code of Ordinances is enacted to read:

Sec. 12-228. Modifications, amendments, deletions.

The International Property Maintenance Code, 2009 edition, incorporated by reference in Section 12-226 is modified as specified hereunder:

(a) Section 101.1 is amended to read:

101.1 Title.

These regulations shall be known as the Minimum Property Maintenance Standards of the City of Lake Wales, hereinafter referred to as “this code”

(b) Section 102.1 is amended to read:

102.1 General.

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

(c) Section 102.3 is amended to read:

102.3 Application of other codes.

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

(d) Section 102.6 is amended to read:

102.6 Historic Buildings.

The provisions of this code shall not be mandatory for existing buildings or

structures that are designated as historic by the National Park Service and listed on the National Register of Historic Places when such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety, and welfare.

(e) Section 102.7 is amended to read:

102.7 Referenced codes and standards.

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

(f) Section 102.8 is amended to read:

102.8 Requirements not covered by code.

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

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

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

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

(4) Reference to any generally accepted practice in the industry, occupation, or general use for which the existing fixture, structure or equipment is primarily designated for, or which the public health, safety, and welfare requires; or

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

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

(g) Section 103 is renamed "Code Enforcement Unit"

(h) Section 103.1 is amended to read:

103.1 Code Officials.

Each Code Enforcement Officer and Building Official of the City is deemed a "Code Official" for purposes of this code. The Lake Wales Building Official is the official in charge of the Code Enforcement Unit. Any notices required to be delivered to the Code Official under this code shall be delivered to the responsible Code Official for the case.

(i) Sections 103.2 and 103.3 are deleted.

(j) Section 103.4 is amended to read:

103.4 Liability.

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

of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(k) Section 103.5 is deleted.

(l) Section 104.1 is amended to read:

104.1 General.

The Code Official shall enforce the provisions of this code.

(m) Section 105.1 is amended to read:

105.1 Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this code, the Building Official shall have the authority to grant modifications to structures for individual cases as may be deemed necessary in his or her discretion. Should a modification be denied, the requester may appeal the Building Official's decision to the Board of Adjustment and Appeals. No modification from the terms of this code shall be issued unless the Board of Adjustment and Appeals finds, based on competent substantial written evidence submitted to the Planning & Development Department at least seven (7) business days before the day of the scheduled meeting of the Board of Adjustment and Appeals, that all of the following conditions are met:

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

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

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

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

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

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

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

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

Should a modification to this code be approved, the Board of Adjustment and Appeals shall draft a modification order and shall forward a copy of the modification order to the Code Official for placement in the Code Official's files and a copy of the

modification order to the Building Official for placement in the Building Official's files.

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

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

(n) Section 105.3 is amended to read:

105.3 Required testing.

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority, but not the obligation, to require tests to be made as evidence of compliance at the property owner's expense.

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

(p) Section 106.2 is amended to read:

106.2 Enforcement Protocol.

The Code Official shall enforce the provisions of this Code in any manner or protocol available including, but not limited to, issuance of a citation pursuant to §162.21, Florida Statutes and §12-211, et seq., Lake Wales Code of Ordinances, a “Notice of Hearing” pursuant to §162.12, Florida Statutes and §12-216, et seq., Lake Wales Code of Ordinances, a “Notice to Appear” pursuant to §162.23, Florida Statutes, a “Demand for Correction” pursuant to §106.3 of this code, or referral to the City Attorney for filing a civil enforcement action. The enumeration of remedies and protocols herein does not constrain the Code Official who, as an officer of a Florida municipality endowed with home rule authority, may use any lawful means necessary to bring a code violation into compliance, to restrain, correct, or to prevent illegal occupancy of any building, structure or premises, or to stop an illegal act, conduct, business or utilization of any building, structure or premises.

(g) Section 106.3 is amended to read:

106.3 Declaration of nuisance; demand for correction.

A violation of any provision of this code is deemed to be a nuisance affecting the public health, safety and welfare, and accordingly, the Code Official is hereby authorized and empowered to notify, in writing, the owner or agent of such owner, of any building, structure or premises within the City, to make such repairs as may be required to abate the nuisance condition and bring such building, structure or premises into compliance. Notice shall be provided to the owner or agent of such owner either (a) in the manner described in §162.12, Florida Statutes, or (b) in the manner described in §12-216, Lake Wales Code of Ordinances.

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

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

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

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which such owner was given to abate the nuisance. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 201 W. Central Avenue, Lake Wales, Florida. In the event the time for owner to abate the nuisance expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Board meeting or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance of the action appealed from until after the hearing is held. Any appeal hearing shall be conducted in

accordance with the provisions of Chapter 162, Florida Statutes. It shall be the responsibility of the owner of the property in question to show that the City's actions are without reason. The Code Enforcement Board shall determine whether the appeal is justified. If not, the City shall proceed with the abatement.

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

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

(r) Section 106.4 is amended to read:

106.4 Violation penalties; remedies additional and supplemental.

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

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

(s) Section 106.5 is amended to read:

106.5 Abatement of violation.

The imposition of the penalties herein shall not preclude the Code Official from referring a particular case to the City Attorney to institute an appropriate action to restrain, correct, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(t) Section 107.1 is amended to read:

107.1 Notices.

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

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

(v) Section 107.6 is amended to read:

107.6 Transfer of ownership.

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

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

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

Any person violating this section shall be subject to the penalty found in §12-225, of the Lake Wales Code of Ordinances.

(w) Section 108.1.5 is amended to read:

108.1.5 Dangerous structure or premises.

For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous.

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

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

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

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

4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

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

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building

collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for habitation or in such a condition that is likely to cause sickness or disease.

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

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

(x) Section 108.2 is amended to read:

108.2 Closing of vacant structures.

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

Alternatively, should the vacant structure

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

public;

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

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

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

"NOTICE OF SECTION 108.2 CLOSING

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

For information, please call (863) 678-4182 X714".

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

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

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which to pay the bill for closing the structure due the City. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 201 West Central Avenue, Lake Wales, Florida. In the event the time for owner to pay expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Board Hearing or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. It shall be the responsibility of the owner of the property in question to show that the City's actions are without reason. The Code Enforcement Board shall determine whether the appeal is justified. The appeal hearing shall be conducted in accordance with the provisions of Chapter 162, Florida Statutes. If

it is determined by the Code Enforcement Board, based on competent substantial evidence in the record, that the City's actions are without reason, the cost for closing the structure shall be borne by the City.

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

(y) Section 108.3 is amended to read:

108.3 Notice.

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

(z) Section 108.5 is amended to read:

108.5 Prohibited occupancy.

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

occupy a placarded premises or operate placarded equipment shall be subject to the penalty in §12-225, Lake Wales Code of Ordinances.

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

108.6 Boarded up structures.

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

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

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

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

(bb) Section 109.1 is amended to read:

109.1 Emergency closing.

When,

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

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

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

because of explosives, explosive fumes, or vapors or the presence of toxic fumes, gases or materials or operation of defective or dangerous equipment;

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

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

NOTICE OF EMERGENCY CLOSING

IMMEDIATE ORDER OF CLOSURE

This structure is unsafe and has been closed by Order of the City of Lake Wales pursuant to Section 109.1 of the Minimum Property Maintenance Standards of the City. For information, please call the Code Enforcement Unit at (863) 678-4182 X714 or the Building Official at (863) 678-4182 X714”.

Any person ordered to take emergency measures shall comply with such order forthwith. It shall be unlawful for a person to enter a posted structure except for the purpose of securing the structure, making the required inspections and repairs, removing the hazardous condition, or to demolish the structure. Any such person in violation of this provision is subject to the penalty found in §12-225, Lake Wales Code of Ordinances and may be immediately removed from the structure by City personnel.

(cc) Section 109.2 is amended to read:

109.2 Safeguards.

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

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

(dd) Section 109.4 is amended to read:

109.4 Notification of Emergency Closing to City Commission.

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

(ee) Section 109.5 is amended to read:

109.5 Costs of safeguard work.

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

(ff) Section 109.6 is amended to read:

109.6 Mandatory Hearing; appeal.

Immediately after closing a structure pursuant to Section 109.1 of this code, the official closing the structure shall request a hearing as soon as possible before the Code Enforcement Board for the purpose of reviewing the decision of the official to determine whether it was reasonable under the totality of the circumstances. Such hearing shall be conducted in accordance with the provisions of Chapter 162, Florida Statutes, and any decision rendered by the Code Enforcement Board as to the propriety of the closure must be based on competent substantial evidence. Any appeal from the decision of the Code Enforcement Board under this provision shall be taken by filing a petition for certiorari with the appropriate court under the Florida Rules of Appellate Procedure. The nature of such an appeal shall be from a final administrative order of the City.

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

(hh) Section 201.3 is deleted.

(ii) Term Definitions.

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

(1) Easement. Deleted.

(2) Equipment Support. Deleted.

(3) Strict Liability Offense. Deleted.

(4) Ultimate Deformation. Deleted.

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

(jj) Section 302.1 is amended to read:

302.1 Sanitation and storage of materials.

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

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

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

(kk) Section 302.4 is amended to read:

302.4 Weeds and overgrowth.

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

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

(ll) Section 304.1.1 is deleted.

(mm) Section 304.3 is amended to read:

304.3 Premises Identification.

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

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

304.14 Insect screens.

Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than sixteen (16) mesh per one (1) inch (25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. All screens shall be maintained free from open rips, tears, or other defects.

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

(oo) Section 304.15 is amended to read:

304.15 Doors.

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

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

(pp) Section 304.19 is created to read:

304.19 Skirting around foundations.

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

(qq) Section 305.1 is amended to read:

305.1 General.

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

(rr) Section 305.1.1 is deleted.

(ss) Section 306 is deleted in its entirety.

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

307.1 General

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

(uu) Sections 308.2.1 and 308.3.1 are deleted.

(vv) Section 401.3 is amended to read:

401.3 Alternative devices.

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

(ww) Section 404.1 is amended to read:

404.1 Privacy.

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

(xx) Section 502.3 is deleted

(yy) Section 502.5 is amended to read:

502.5 Public toilet facilities.

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

(zz) Section 503.2 is amended to read:

503.2 Location.

Toilet rooms and bathrooms serving rooming units or dormitory units or

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

(aaa) Section 503.4 is amended to read:

503.4 Floor surface.

Every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

(bbb) Section 505.1 is amended to read:

505.1 General.

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. In dwelling units, housekeeping units, rooming units and dormitory units all kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with both hot or tempered running water and cold running water.

(ccc) Section 506.3 is deleted.

(ddd) Section 602.2 is amended to read:

602.2 Residential occupancies.

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

(eee) Section 602.3 is amended to read:

602.3 Heat supply.

Every owner and operator of any building who rents, leases or lets one or more

dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to March 30 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

(fff) Section 602.4 is amended to read:

602.4 Occupiable work spaces.

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

Exceptions:

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

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

(ggg) Section 604.2 is deleted.

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

(iii) Section 606 is deleted in its entirety.

(jjj) Section 701 is deleted.

(kkk) Section 702.1 is amended to read:

702.1 General.

A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Florida Fire Prevention Code.

(lll) Section 702.2 is deleted.

(mmm) Section 702.3 is amended to read:

702.3 Locked doors.

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

(nnn) Section 702.4 is deleted.

(ooo) Section 703 is deleted.

(ppp) Section 704.1 is amended to read:

704.1 General.

A person shall not occupy as owner-occupant nor shall let to another for occupancy, any building or structure which is not equipped with adequate fire prevention equipment in accordance with the Florida Fire Prevention Code. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Florida Fire Prevention Code.

(qqq) Section 704.1.1 is deleted.

(rrr) Section 704.2 is amended to read:

704.2 Smoke Alarms.

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

(sss) Section 704.3 and 704.4 are deleted.

SECTION 6. Sections 12-36 through 12-41, inclusive, of the Lake Wales Code of Ordinances are hereby repealed.

SECTION 7. Sections 12-71 through 12-79, inclusive, of the Lake Wales Code of Ordinances are hereby repealed.

SECTION 8. Section 12-218 of the Lake Wales Code of Ordinances is created to read:

Sec. 12-218. Recorded statement constitutes lien.

Where the full amount due the city for costs expended by the City in accordance with the provisions of Section 12-214 of the Lake Wales Code of Ordinances is not paid by the owner of property coming under this chapter within thirty (30) days after the cutting, destroying and/or removal of such weeds, grass, undergrowth, rubbish, debris, trash, deleterious and unhealthy growth or other noxious matter brought into compliance by the City, then in that case the Code Official shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place or property on which such work was done, and the recordation of such sworn statement shall constitute a special assessment lien and privilege on the property, equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and such lien shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made.

SECTION 9. Section 12-219 of the Lake Wales Code of Ordinances is created to read:

Sec. 12-219. Alternative Collection of Abatement and Violation Correction

Special Assessment Liens.

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

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

(c) At the time and place designated in the notice provided in paragraph (b), the City Commission shall meet as an equalizing board to hear and consider any and all complaints as to such assessment and shall adjust and equalize the assessment, and when so equalized and approved and the resolution specified in paragraph (a) adopted, such assessment shall stand confirmed and be and remain a legal, valid and binding lien upon the property against which such assessment is made until paid.

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

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

SECTION 10. As determined solely by the Code Official responsible for implementing and enforcing the International Property Maintenance Code, as amended herein, and the Lake Wales Code of Ordinances, courtesy notifications, such as letters or door hangers, may be used to the extent practical and feasible to apprise persons of alleged violations.

SECTION 11. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent necessary to give this ordinance full force and effect.

SECTION 12. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Lake Wales, Florida, hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

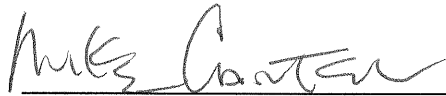
SECTION 13. Nothing in this ordinance or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by the adoption of this ordinance.

SECTION 14. It is the intent of the City Commission that the provisions of this ordinance found in Sections 1, 3, 4, 5, 8, 9, 10 and 11, shall become and be made part of the Code of Ordinances of the City; and that sections of this ordinance may be re-numbered or re-lettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this ordinance may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 15. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect upon adoption.

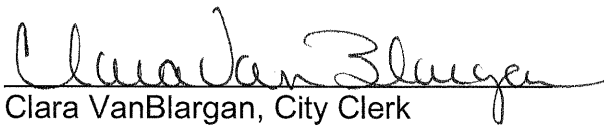
PASSED AND ADOPTED after public hearing on second reading this 3rd day of July, 2012

CITY OF LAKE WALES



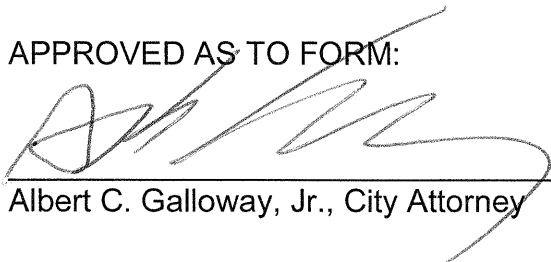
Michael S. Carter, Mayor

ATTEST:



Clara VanBlargan, City Clerk

APPROVED AS TO FORM:



Albert C. Galloway, Jr., City Attorney