

# **LAKE WALES**

## **OFFICIAL CODE OF ORDINANCES**

### **CHAPTER 12. HEALTH, SANITATION, NUISANCES, AND MINIMUM PROPERTY MAINTENANCE STANDARDS**

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**LAKE WALES**

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

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**Table of Contents**

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Article I. In General

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- § 12-1. Legislative intent.
- § 12-2. Definitions and rules of construction.
- § 12-3. Applicability.
- § 12-4. Severability.
- § 12-5. Authority and Liability of City Officials
- § 12-6. Notice to Abate a Nuisance
- § 12-7. Repeat violator status
- § 12-8. Penalties.

Article II. Nuisances

---

Division 1. Generally

- § 12-20. Nuisance Penalty (F.S. 823.01)

Division 2. Debris, Weeds, Wild Growth, Dangerous and Unsanitary Conditions

- § 12-38. Dead trees, limbs, branches and accumulated landscaping materials.
- § 12-40. Dangerous Conditions - General.
- § 12-41. Graffiti.
- § 12-42 - 55. RESERVED
- § 12-36. Property clearing and cleaning.
- § 12-37. Junk & Trash.
- § 12-39. Tree Declared Nuisance/ Dangerous.

Division 3. Noise Control

- § 12-56. Findings of fact
  - § 12-57. Authority
  - § 12-58. Noise disturbance—Defined.
  - § 12-59. Prohibition of noise disturbance.
  - § 12-60. Specific prohibitions.
  - § 12-61. Exemptions.
  - § 12-62. Penalties.
  - § 12-63. Reserved.
  - § 12-64. School-related activities.
  - § 12-65. Separate violations.
-

- § 12-66. Other remedies.
- § 12-67. Liberal, non-conflicting construction.
- § 12-68. Severability.
- § 12-69. Repeal of ordinance in conflict.

#### Division 4. Motor Vehicles or Vessels

- § 12-71. Motor Vehicle(s), or Vessel(s).
- § 12-72. Disposition & Impoundment of vehicle(s) or vessel(s):
- §§ 12-73 through 12-150. Reserved

#### Division 5. Litter, Garbage and Refuse

- § 12-151. Polk County Litter Law adopted by reference.
- § 12-152. Clarifying the definition of "law enforcement officer."
- § 12-153. Accumulation of rubbish or garbage.
- § 12-154. Disposal of rubbish.
- § 12-155. Appliances, Refrigerators, and other Large Waste.
- § 12-156. Disposal of garbage.
- § 12-157. Containers.
- §§ 12-158 through 12-200. Reserved

### Article III. Code Enforcement

---

#### Division 1. Generally

- § 12-201. Code enforcement board.
- § 12-202. Definitions and rules of construction. [Transferred to 12-2]
- § 12-203. Applicability. [Transferred to 12-4]
- §§ 12-202 through 12-210. Reserved

#### Division 2. Enforcement Procedure

- § 12-211. Initiation of proceedings.
- § 12-212. Conduct of hearing.
- § 12-213. Finding of fact, conclusions of law, and order.
- § 12-214. Administrative fines and costs of repairs.
- § 12-215. Liens.
- § 12-216. Notices.
- § 12-217. Appeals.
- § 12-218. Recorded statement constitutes lien.
- § 12-219. Alternative collection of abatement and violation correction special assessment liens.

#### Division 3. Supplemental Enforcement Procedures

- § 12-221. Code enforcement citation system.
- § 12-222. Applicability.
- § 12-223. Authority and powers of code enforcement officer.
- § 12-224. Procedure.
- § 12-225. Penalties.

#### Division 4. Minimum Property Maintenance Standards

- § 12-226. Intent
  - § 12-227. Applicability
  - § 12-228. Severability
-

- 
- § 12-229. Duties and powers of the code official
  - § 12-230. Unsafe structures and equipment
  - § 12-231. Emergency measures
  - § 12-232. Definitions
  - § 12-233. Exterior property areas
  - § 12-234. Swimming pools, spas and hot tubs
  - § 12-235. Exterior structure
  - § 12-236. Interior structure
  - § 12-237. Rubbish and garbage
  - § 12-238. Pest extermination
  - § 12-239. Sanitary drainage system
  - § 12-240. Storm drainage
  - § 12-241. Electrical equipment
  - § 12-242. Fire safety requirements
  - § 12-243. Fire protection systems

*Article IV. Minimum Property Maintenance Standards [Repealed]*

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*§ 12-226. International property maintenance code adopted. [Repealed & Reenacted]*

*§ 12-227. Conflicts. [Repealed & Reenacted]*

*§ 12-228. Modifications, amendments, deletions. [Repealed & Reenacted]*

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**LAKE WALES**  
**CHAPTER 12. HEALTH, SANITATION, NUISANCES,**  
**AND MINIMUM PROPERTY MAINTENANCE**  
**STANDARDS**

**Article I. In General**

**§ 12-1. Legislative intent.**

*Effective: Tuesday, June 21, 2016*

In accordance with authority granted by F.S. Ch. 162 and 166 it is the intent of the city commission to promote, protect, and improve the health, safety and welfare of the citizens of Lake Wales; to provide an equitable, expeditious, effective and inexpensive method enforcing any city code or ordinance where a violation exists; and to provide authority for the immediate issuance of a citation if a repeat violation is found, if a violation presents a serious threat to the public health, safety or welfare, or if a violation is irreparable or irreversible.

(Ord. No. 2016-08, § 1, 06-21-16)

**§ 12-2. Definitions and rules of construction.**

*Effective: Tuesday, June 21, 2016*

(a) The following words, terms or phrases, when used in this article, shall have the meanings ascribed to them in this section:

**Code enforcement board.** The board appointed by the city commission in accordance with authority granted by F.S. § 162.03, and established to impose administrative fines severally.

**Code enforcement officer.** Any designated or authorized employee or agent of the city whose duty it is to enforce or assure compliance with city codes and ordinances.

**Continuing violation.** A violation which continues to occur after notice to correct the violation has been issued to the violator. Each day a violation continues shall constitute a separate infraction, and a penalty may be assessed for each day of continuing violation.

**Person.** Any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever, or any combination of such, jointly or severally.

**Repeat violation.** A violation of a provision of a code or ordinance by a person whom the code enforcement board has previously found to have violated the same provision within five (5) years prior to the violation.

**Violation.** Any act or failure to act which results in an infraction of a duly enacted city code or ordinance.

(b) For the purpose of administration and enforcement of city codes, unless otherwise stated in this article, the following rules of construction shall apply:

The word "shall" is always mandatory and not discretionary;

The word "may" is permissive.

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Unless the context clearly indicates the contrary, where regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or " or "either" the conjunction shall be interpreted as follows:

- (1) "And" indicates that all the connected terms, conditions, provisions, or events shall apply.
- (2) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- (3) "Either" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(Ord. No. 2016-08, § 1, 06-21-16)

### **§ 12-3. Applicability.**

*Effective: Tuesday, June 21, 2016*

The provisions of this article shall apply in the incorporated area of Lake Wales to the enforcement of city codes as they may be amended from time to time.

(Ord. No. 2016-08, § 1, 06-21-16)

### **§ 12-4. Severability.**

*Effective: Tuesday, June 21, 2016*

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of these regulations shall continue in full force and effect, it being the intent of the city commission to have adopted these regulations without such unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase.

(Ord. No. 2016-08, § 1, 06-21-16)

### **§ 12-5. Authority and Liability of City Officials**

*Effective: Tuesday, June 21, 2016*

- a) It is unlawful for any person to obstruct or resist the City Manager, his designee, or any person authorized by the City Manager in the discharge of his duties, as provided for in this chapter is guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed five hundred dollars(\$500.00) , imprisonment in jail not to exceed sixty (60) days or both.
- b) The City Manager, his designee, or the City shall not be liable for any damages caused during the removal or impounding of any vehicle(s) or vessel(s) impounded or disposed of in accordance with the provisions of this chapter.
- c) In addition to enforcement procedures provided under this chapter, any person violating any prohibitions against an unlicensed, abandoned, wrecked, dismantled, derelict or inoperative vehicle(s), vessel(s), or any other property may be subject to code enforcement procedures and penalties in accordance with this chapter

(Ord. No. 2016-08, § 1, 06-21-16)

### **§ 12-6. Notice to Abate a Nuisance**

*Effective: Tuesday, June 21, 2016*

a) It shall be the duty of any person receiving the notice of a public nuisance(s) as provided in this Chapter to comply with the provisions of the notice and to abate such nuisances(s) within ten(10) days after the receipt of such notice, and if such person shall fail or refuse to abate such nuisances(s) within ten (10) days from receipt of such notice within just cause, such failure is declared to be unlawful and shall constitute a misdemeanor. Each day such nuisances(s) persists shall constitute a separate violation.

b) It is unlawful and shall constitute a misdemeanor for any person, after having received notice as provided in this chapter, to remove any nuisances(s) from any property to any other property upon which storage is not permitted.

c) If the nuisance is not abated within the time provided, and after notice has been given in accordance with F.S. 162, the city may abate the nuisance, and the cost of abatement may be charged to the owner of the nuisance or assessed against the land upon which the nuisance exists or both.

(Ord. No. 2016-08, § 1, 06-21-16)

### **§ 12-7. Repeat violator status**

*Effective: Tuesday, June 21, 2016*

When a property owner violates any article within the City Code three (3) times within a five (5) year period and is notified in accordance with the procedures herein, the owner shall be considered for an automatic code enforcement board hearing to be shown as repeatedly contributing to a nuisance, and any further violations of the same ordinance shall subject the owner to a repeat offender status and a fine not to exceed five hundred dollars (\$500.00) for each day the violation continues, in addition to any and all costs as foredescribed

(Ord. No. 2016-08, § 1, 06-21-16)

### **§ 12-8. Penalties.**

*Effective: Tuesday, July 18, 2017*

Any person violating the provisions of this Chapter shall be punished as provided in section 1-15.

(Ord. No. 2017-12, § 1, 7-18-2017)

## **Article II. Nuisances**

### **Division 1. Generally**

#### **§ 12-20. Nuisance Penalty (F.S. 823.01)**

*Effective: Tuesday, July 18, 2017*

All nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are misdemeanors of the second degree, and punishable as provided in F.S. 775.083, except that a violation of F.S. 823.10 (Place where controlled substances are illegally kept, sold, or used declared a public nuisance) is a felony of the third degree.

(Ord. No. 2017-12, § 2, 7-18-2017)

### **Division 2. Debris, Weeds, Wild Growth, Dangerous and Unsanitary Conditions**

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**§ 12-38. Dead trees, limbs, branches and accumulated landscaping materials.**

*Effective: Tuesday, June 21, 2016*

It shall be the responsibility of the owner and or occupant to remove and properly dispose of dead and/or downed trees, limbs, branches, bagged or piled grass clippings, bagged or piled leaves and other piles or accumulations of material resulting from landscaping or maintenance of a parcel of land or lots. Stumps resulting from the removal of dead trees will be ground to or below grade level as to prevent a hazardous condition.

(Ord. No. 2016-08, § 2, 06-21-16)

**§ 12-40. Dangerous Conditions - General.**

*Effective: Tuesday, June 21, 2016*

It is unlawful for any person to maintain or permit the existence of any condition that is a danger to life, health, or property within the City. Dangerous conditions include, but are not limited to, any unsecured structure, structures in violation of the Florida Building Code, The International Property Maintenance Code, The Uniform Code for the Abatement of Dangerous Buildings, trees in danger of falling, all or in part, unprotected excavations, improper storage of hazardous or toxic materials, any abandoned or stored refrigeration unit, appliance, derelict vehicle, derelict vessel, or other condition that could trap a person, in such a place as to be easily accessible to persons without first having made adequate provisions to prevent entry into such without having removed all latches, catches, locking devices or the door thereof, so that escape from the interior may be had, or otherwise ensure lack of access.

(Ord. No. 2016-08, § 2, 06-21-16)

**§ 12-41. Graffiti.**

*Effective: Tuesday, June 21, 2016*

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

(Ord. No. 2016-08, § 2, 06-21-16)

**§ 12-42 - 55. RESERVED**

*Effective: Tuesday, June 21, 2016*

(Ord. No. 2016-08, § 2, 06-21-16)

**§ 12-36. Property clearing and cleaning.**

*Effective: Wednesday, September 19, 2018*

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All premises and exterior property. *and* on the portion of the adjoining public right-of-way between the property *and* the street, other than agricultural, shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height, dead and or downed trees, stumps must be ground to or below grade, low hanging branches must be trimmed to a height of at least six (6) feet above grade. The removal of any tree, four (4) inches or greater in diameter at breast height (DBH), cannot be removed without a permit.

**EXCEPTION:** Parcels over 10 acres need only mow and clean the first twenty five (25) feet of the perimeter of the property.

(Ord. No. 2016-08, § 2, 06-21-16; Ord. No. 2018-06, § 1, 09-19-18)

### **§ 12-37. Junk & Trash.**

*Effective: Wednesday, September 19, 2018*

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. It shall be the duty of each property owner or household in this city to remove all debris, from his or her property, including the streets, alleys, and sidewalks bordering thereon, and keep same in good, clean, 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, scrap metal, 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 ten (10) 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.

(Ord. No. 2016-08, § 2, 06-21-16; Ord. No. 2018-06, § 2, 09-19-18)

### **§ 12-39. Tree Declared Nuisance/ Dangerous.**

*Effective: Wednesday, September 19, 2018*

a) Any tree extending over a street, alley highway, or parking lot shall be trimmed by the property owner, or his authorized agent, on which the tree trunk is located, so as to provide a clear height above the street, alley, highway, or parking lot of not less than fourteen (14) feet.

b) Any tree extending over a sidewalk, or multi-modal trail shall be trimmed by the property owner, or his authorized agent, so as to provide a clear height above the sidewalk, or multi-modal trail, of not less than eight (8) feet.

c) The property owner of any tree which extends over a street, alley, highway, parking lot, sidewalk, or multi-modal trail shall remove any and all dead branches from the tree which, if dislodged, are likely to fall upon the public street, alley, highway or sidewalk.

d) In the event that the property owner fails to meet the requirements of this section, then the City may issue a written notice of violation to the property owner giving fifteen (15) days to correct the violation. If the violation is not corrected within the given period of time then the City has the option of correcting the violation at the property owner's expense.

(Ord. No. 2016-08, § 2, 06-21-16; Ord. No. 2018-06, § 3, 09-19-18)

### **Division 3. Noise Control**

#### **§ 12-56. Findings of fact**

The following findings are incorporated herein and made a part hereof:

(1) The making and creating of unreasonably loud, disturbing and unnecessary noise continues to occur with increasing frequency in conjunction with the ever-growing population and development of the City of Lake Wales.

(2) Such noises are a detriment affecting the public health, safety and welfare of the citizens of the City of Lake Wales.

(3) It is the purpose of this ordinance to prevent, prohibit and provide for the abatement of disturbing noise which may not be amenable to practical measurement by decibel measuring apparatus in order to protect the health, safety and general welfare of the residents of the City of Lake Wales.

(Code 1962, § 15-45; Ord. No. 2002-08, 5-21-02)

#### **§ 12-57. Authority**

This division is enacted pursuant to Article 2, Section 7, of the Florida Constitution, which provides that adequate provision shall be made by law for the abatement of excessive and unnecessary noise, and under the Home Rule Powers Act, F.S. § 166.021.

(Code 1962, § 15-46; Ord. No. 2002-08, 5-21-02)

#### **§ 12-58. Noise disturbance—Defined.**

As used in the division, a "noise disturbance" is any sound which is:

(1) Unreasonably loud and disturbing;

(2) Of such character, quantity, or duration as to be injurious to human or animal life, or property;

(3) Of such character, quantity, or duration as to unreasonably interfere with the comfortable enjoyment of life or property; or

(4) Of such character, quantity, or duration as to unreasonably interfere with the normal conduct of business.

(Ord. No. 95-13, § 3, 4-18-95; Ord. No. 2002-08, 5-21-02)

#### **§ 12-59. Prohibition of noise disturbance.**

No person or legal entity, through its officers, agents or employees, shall make, maintain, or cause to be made or maintained a noise disturbance as defined in this division. The continuation of a noise disturbance upon one's property following notice of its existence to that person making, maintaining, or causing to be made or maintained a noise disturbance shall be deemed to continue with the permission of the property owner and/or lessee.

(Ord. No. 2002-08, 5-21-02)

### **§ 12-60. Specific prohibitions.**

The following specified acts and circumstances are hereby declared to constitute prohibited noise disturbances in violation of this division, provided, however, such enumeration is not and shall not be deemed to be exclusive, provided, further, that all other acts and circumstances meeting the definition of noise disturbance are likewise declared to be in violation of this division.

(1) *Radios, televisions, tape players, compact disc players, musical instruments and similar devices.* Playing or permitting the playing of any radio, television, tape player, compact disc player, musical instrument or similar device, whether or not amplified, in such a manner or with such a volume as to annoy or disturb the quiet, comfort and repose of a reasonable person in a dwelling, place of business, hotel or other place of residence.

(2) *Amplified human voice.* Amplifying the human voice in such a manner or with such volume as to annoy or disturb the quiet, comfort, and repose of a reasonable person in any dwelling, place of business, hotel or other place of residence.

(Ord. No. 2002-08, 5-21-02)

### **§ 12-61. Exemptions.**

The provisions of this division, except for those specified prohibitions set forth hereinabove, shall not apply to the following sounds:

- (1) The unamplified human voice;
- (2) Railway locomotives or cars;
- (3) Household or farming tools, appliances and equipment meeting manufacturer's specifications as to sound, if applicable;
- (4) Aircraft and airport activity conducted in accordance with federal laws and regulations;
- (5) Maintenance of public service facilities;
- (6) Law enforcement activities, including training;
- (7) Authorized target shooting;
- (8) Emergency signals during emergencies;
- (9) Emergency signal testing;
- (10) Motor vehicles operating on a public right-of-way subject to F.S. § 316.293;
- (11) Refuse collection and mosquito fogging;
- (12) Operation of any regulated utility;

- (13) Ordinary and customary construction activities exempt from or for which the City of Lake Wales has issued a development permit, provided such activity occurs between 7:00 a.m. and 9:00 p.m.;
- (14) Organized athletic contests;
- (15) Sounds relating to and originating within any area zoned for commercial use;
- (16) Sounds relating to and originating within any area zoned for industrial use;
- (17) Sounds relating to and originating from legal, pre-existing, non-conforming commercial and industrial activities;
- (18) Boats and boating activities;
- (19) Emergency devises and vehicles used for the purpose of alerting persons of an emergency or the emission of sound in the performance of emergency work;
- (20) Lawful non-commercial public gatherings including, but not limited to, parades, festivals, and school functions;
- (21) Reasonable operation of equipment associated with the following activities between one-half (½) hour before sunrise and 10:00 p.m.:
- Lawn care, soil cultivation;
  - Maintenance of trees, hedges and gardens, the use of lawn mowers, saws and tractors, tree trimming and limb clipping.

These exemptions do not apply to the specific prohibitions set forth in section 12-60 above.

(Ord. No. 2002-08, 5-21-02)

### **§ 12-62. Penalties.**

A person who violates section 12-59 and section 12-60 as set forth hereinabove, shall be subject to prosecution in the name of the state in the same manner as misdemeanors are prosecuted; and, upon conviction, such person shall be punished by a fine not to exceed five hundred dollars (\$500.00), or imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 2002-08, 5-21-02)

### **§ 12-63. Reserved.**

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#### **EDITOR'S NOTE**

Ord. No. 2011-13, adopted Aug. 16, 2011, repealed § 12-63 which pertained to operating of radios or other mechanical sound making devices or instruments in vehicles, exemptions, and penalties, and derived from Ord. No. 2002-08, adopted May 21, 2002. See § 20-5

### **§ 12-64. School-related activities.**

All authorized school-related activities are exempt from the provisions of this division.

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(Ord. No. 2002-08, 5-21-02)

**§ 12-65. Separate violations.**

Each separate occurrence shall constitute a separate violation and shall be punishable as such hereunder.

(Ord. No. 2002-08, 5-21-02)

**§ 12-66. Other remedies.**

The City of Lake Wales may bring suit in Circuit Court of Polk County to restrain, enjoin or otherwise prevent the violation of this division.

(Ord. No. 2002-08, 5-21-02)

**§ 12-67. Liberal, non-conflicting construction.**

The provisions of this division shall be liberally construed such that its purpose is effectively rendered in the interest of the health, safety and welfare of the citizens and residents of the City of Lake Wales.

(Ord. No. 2002-08, 5-21-02)

**§ 12-68. Severability.**

If any provision of this division or the application thereof is held invalid, such invalidity shall not affect the other provisions or application of this division which can be given effect without the invalid provisions or application, and to this end the provisions of this division are hereby declared severable.

(Ord. No. 2002-08, 5-21-02)

**§ 12-69. Repeal of ordinance in conflict.**

All other ordinances of the City of Lake Wales, Florida, or portions thereof which conflict with this or any part of this division are hereby repealed.

(Ord. No. 2002-08, 5-21-02)

**Division 4. Motor Vehicles or Vessels**

**§ 12-71. Motor Vehicle(s), or Vessel(s).**

*Effective: Tuesday, June 21, 2016*

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Except as provided for in other regulations, The presence of an unlicensed, abandoned, wrecked, dismantled, derelict or inoperative vehicle(s) or vessel(s), on any private or public property, is declared to constitute a public nuisance that shall be abated as such in accordance with the provisions of **section 12-72**. The tearing down, stripping or junking of such vehicle(s) or vessel(s) shall be permitted only where and when such use is specifically authorized, permitted, or licensed under other ordinances of the city and in strict accordance therewith; or which use is conducted entirely within the confines of an accessory building, carport, or garage, then only provided that such vehicle(s) or vessel(s) is the property of the owner or occupier of the lot and that such use is not a commercial use of the property, unless such use is authorized by other ordinances of the city.

Derelict Vehicle(s) or Vessel(s).

A vehicle or vessel, or parts thereof, shall be deemed to be "derelict" if the vehicle(s) or vessel(s) is:

- 1) Inoperable to the extent that it is unable to perform its original intended function or;
- 2) Partially or wholly dismantled or;
- 3) In a condition that prevents legal operation or;
- 4) Junked or intended to be recycled, scrapped, or;
- 5) Unlicensed

This section defining derelict and abandon vehicle(s) or vessel(s) shall not apply to the following:

- 1) A vehicle(s) or vessel(s) that is enclosed in a secure building;
- 2) A vehicle(s) or vessel(s) on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise as determined by the Lake Wales Code of Ordinances;
- 3) A vehicle(s) or vessel(s) in an appropriate storage or depository facility maintained in a lawful place and manner by a governmental agency;
- 4) An antique motor vehicle as defined in F.S. 320.086 which is licensed as provided by law.
- 5) A vehicle(s) or vessel(s) which is covered by an intact custom vehicle or vessel cover made for the specific type and size of vehicle or vessel which it covers.
  - a) In no instance shall a person have more than one (1) custom covered vehicle or vessel on his or her residential property or two (2) custom covered vehicles, vessels, or combination thereof on his or her non residential property
  - b) No custom covered vehicle(s) or vessel(s) may be stored on public property or right-of-way.
- 6) A race car that is currently actively engaged in racing and equipped for racing with roll cage, windows removed, drivers name, sponsors and number displayed. Demolition race cars shall be considered derelict vehicles two weeks after the demolition race.
- 7) An automobile repair shop may only have derelict vehicles on the premises for the time necessary under agreement for repair with business customers; automobile dealers may not have derelict vehicles on the premises for resale.

## **§ 12-72. Disposition & Impoundment of vehicle(s) or vessel(s):**

*Effective: Tuesday, June 21, 2016*

a) PRIVATE PROPERTY: No person in charge of any private property within the city shall allow any unlicensed, abandoned, wrecked, dismantled, derelict, inoperative vehicle(s), or vessel(s) to remain on any private property for a period longer than ten(10) days. This shall not apply to any vehicle(s) or vessel(s) in an enclosed building, a carport, or any vehicle allowed under **§ 12-71 Motor Vehicle(s), or Vessel(s)**.

b) PUBLIC PROPERTY: No person shall allow any unlicensed, abandoned, wrecked, dismantled, derelict, inoperative vehicle(s), or vessel(s) to remain on any public property for a period longer than five (5)days. This shall not apply to any vehicle in an enclosed building, a carport, or on a commercial property operated in a lawful manner for vehicle repair or restoration.

c) If the vehicle(s) or vessel(s) is not removed in accordance with notice set forth in this chapter, the City Manager or his designee may cause the vehicle(s) or vessel(s) to be removed. If the vehicle(s) or vessel(s) is three(3) years and older then it shall be retained for a period of forty five (45) days, If the vehicle(s) or vessel(s) is three(3) years and newer then it shall be retained for a period of sixty (60) days. The vehicle(s) or vessel(s) owner may have vehicle released upon proof of ownership by title, registration or bill of sale and paying all towing and storage fees to the private contractor. If the vehicle or vessel is unclaimed after 45 (#) days the private contractor may dispose of the vehicle or vessel in any manner permitted by law.

(Ord. No. 2016-08, § 2, 06-21-16)

## **§§ 12-73 through 12-150. Reserved**

*Effective: Tuesday, June 21, 2016*

(Ord. No. 2016-08, § 2, 06-21-16)

## **Division 5. Litter, Garbage and Refuse**

### **§ 12-151. Polk County Litter Law adopted by reference.**

The City of Lake Wales hereby adopts by reference Polk County Ordinance 99-24, known as the "Polk County Litter Law" (Exhibit A) as amended by Polk County Ordinance 99-37 (Exhibit B) and as may be amended from time to time in the future.

(Ord. No. 2000-06, § 1, 5-2-00)

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#### **REFNOTE**

Exhibits A and B are not set out herein, but are on file and available for inspection in the offices of the city.

### **§ 12-152. Clarifying the definition of "law enforcement officer."**

*Effective: Tuesday, June 21, 2016*

Section 1(c) of Polk County Ordinance No. 99-37 amending Section 2(c) of Polk County Ordinance 99-24 specifies that:

"Law enforcement officer" means any officer of the Florida Highway Patrol, the Polk County Sheriff's Office, a Municipal Police Department, Officers of the Florida Game and Freshwater Fish Commission, Polk County Code Enforcement Officers, and, solely for the purposes of this division, any employee of the Polk County Division of Parks and Recreation designated by the department as a Litter Control Officer."

(Ord. No. 2000-06, § 1, 5-2-00; Ord. No. 2016-08, § 2, 06-21-16)

### **§ 12-153. Accumulation of rubbish or garbage.**

*Effective: Tuesday, June 21, 2016*

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

(Ord. No. 2016-08, § 2, 06-21-16)

### **§ 12-154. Disposal of rubbish.**

*Effective: Tuesday, June 21, 2016*

*Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.*

(Ord. No. 2016-08, § 2, 06-21-16)

### **§ 12-155. Appliances, Refrigerators, and other Large Waste.**

*Effective: Tuesday, June 21, 2016*

Appliances, Refrigerators, and other large waste not in operation shall not be discarded, abandoned or stored on any premises without first securing or removing the doors. (See also 12-233.11 *Dangerous Conditions - General.*)

(Ord. No. 2016-08, § 2, 06-21-16)

### **§ 12-156. Disposal of garbage.**

*Effective: Tuesday, June 21, 2016*

Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

(Ord. No. 2016-08, § 2, 06-21-16)

### **§ 12-157. Containers.**

*Effective: Tuesday, June 21, 2016*

The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

(Ord. No. 2016-08, § 2, 06-21-16)



## **§§ 12-158 through 12-200. Reserved**

*Effective: Tuesday, June 21, 2016*

### **Article III. Code Enforcement**

#### **Division 1. Generally**

#### **§ 12-201. Code enforcement board.**

*Effective: Tuesday, June 21, 2016*

- (a) A code enforcement board is established in accordance with Section 2-56 of this Code.
- (b) The members of the code enforcement board shall elect a chairman, who shall be a voting member, from among the members of the board. The presence of four (4) or more members shall constitute a quorum. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city commission or as are otherwise provided by law.
- (c) All findings by the board must be approved by a majority of those members present and voting. At least 4 members must vote in order for the action to be official
- (d) The city attorney shall either be the counsel to the enforcement board or shall represent the city by presenting cases before the code enforcement board, but in no case shall the city attorney serve in both capacities.
- (e) No member of the code enforcement board shall have the power to initiate enforcement proceedings for violations of the various codes.
- (f) The code enforcement board shall have the power to:
  - (1) Adopt rules for the conduct of its hearings.
  - (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the police department.
  - (3) Subpoena evidence to its hearings.
  - (4) Take testimony under oath.
  - (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

(Ord. No. 95-13, § 1, 4-18-95; Ord. No. 2016-08, § 3, 06-21-16)

#### **§ 12-202. Definitions and rules of construction. [Transferred to 12-2]**

*Effective: Tuesday, June 21, 2016*

This section is moved to Article I – In General, 12-2.

(Ord. No. 95-13, § 1, 4-18-95; Ord. No. 2016-08, § 3, 06-21-16)

#### **§ 12-203. Applicability. [Transferred to 12-4]**

*Effective: Tuesday, June 21, 2016*

This section is moved to Article I – In General, 12-4.

(Ord. No. 95-13, § 1, 4-18-95; Ord. No. 2011-24, § 3, 10-4-11; Ord. No. 2016-08, § 3, 06-21-16)

## **§§ 12-202 through 12-210. Reserved**

*Effective: Tuesday, June 21, 2016*

### **Division 2. Enforcement Procedure**

#### **§ 12-211. Initiation of proceedings.**

(a) It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes.

(b) Except as provided in subsections (c) and (d), if a violation of the codes is found, the code enforcement officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement officer shall notify the code enforcement board and request a hearing. A hearing shall be scheduled, and written notice of such hearing shall be provided as set forth in section 12-216 to said violator. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code enforcement officer, the case may be presented to the code enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(c) If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, shall notify the code enforcement board and request a hearing. A hearing shall be scheduled, and written notice of such hearing shall be provided pursuant to section 12-216. The case may be presented to the code enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state.

(d) If the code enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator and may immediately notify the code enforcement board and request a hearing.

(Ord. No. 95-13, § 1, 4-18-95; Ord. No. 2011-24, § 4, 10-4-11)

#### **§ 12-212. Conduct of hearing.**

(a) Upon request of the code enforcement officer, or at such other times as may be necessary, the chairman of the code enforcement board may call a hearing of the board; a hearing may also be called by written notice signed by at least three (3) members of the board. Minutes shall be kept of all hearings, and all hearings and proceedings shall be open to the public. The city shall provide clerical and administrative personnel as may be reasonably required for the proper performance of its duties.

(b) Each case before the code enforcement board shall be presented by a member of the administrative staff or the city attorney. If the city prevails in prosecuting a case before the code enforcement board, it shall be entitled to recover all costs incurred in prosecuting the case before the board.

(c) The code enforcement board shall proceed to hear the cases on the agenda for the day. All testimony shall be under oath and shall be recorded. The code enforcement board shall take testimony from the code enforcement officer and the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(d) At the conclusion of the hearing, the code enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the provisions of section 12-213

(Ord. No. 95-13, § 1, 4-18-95)

### **§ 12-213. Finding of fact, conclusions of law, and order.**

(a) The finding of fact, conclusions of law, and order shall be by motion approved by a majority of those members present, except that at least four (4) members must vote in order for the action to be official.

(b) The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified, in subsection 12-214(c), the cost of repairs may be added to the fine if the order is not complied with by said date.

(c) A certified copy of such order shall be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns.

(d) If the order is complied with by the date specified in the order, the code enforcement board shall issue an order acknowledging compliance, and such order shall be recorded in the public records of the county. A hearing is not required to issue an order acknowledging compliance.

(Ord. No. 95-13, § 1, 4-18-95)

### **§ 12-214. Administrative fines and costs of repairs.**

(a) The code enforcement board, upon notification by the code enforcement officer that an order of the board has not been complied with by the set time, may order the violator to pay a fine in an amount specified by the board which shall not exceed two hundred fifty dollars (\$250.00) per day for each day the violation continues past the date set by the board for compliance. If a finding of a violation has been made pursuant to section 12-213, a separate hearing shall not be necessary for issuance of the order imposing the fine.

(b) The code enforcement board, upon notification by the code enforcement officer that a repeat violation has been committed, may order the violator to pay a fine which shall not exceed five hundred dollars (\$500.00) per day for each day the repeat violation is found to have occurred by the code enforcement officer. If a finding of a repeat violation has been made pursuant to section 12-213, a separate hearing shall not be necessary for issuance of the order imposing the fine.

(c) If the code enforcement officer believes that the violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code enforcement board shall notify the city commission which may direct the city manager to make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs in addition to the fine imposed pursuant to this section.

(d) In determining the amount of the fine, if any, the code enforcement board shall consider the gravity of the violation, any actions taken by the violator to correct the violation, and any previous violations committed by the violator.

(e) The code enforcement board may reduce a fine imposed pursuant to this section.

(f) A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to section 12-215, whichever occurs first.

(Ord. No. 95-13, § 1, 4-18-95)

### **§ 12-215. Liens.**

(a) A certified copy of the order imposing a fine shall be recorded in the public records of the county and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.

(b) Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of the state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes.

(c) A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city clerk may execute a satisfaction or release of lien entered pursuant to this section. The city shall be entitled to recover all costs incurred by recording and satisfying a valid lien.

(d) After three (3) months from the filing of any such lien which remains unpaid, the code enforcement board may authorize the city attorney to foreclose on the lien, provided that no lien created pursuant to this section may be foreclosed on real property which is a homestead under section 4, Article X of the State Constitution.

(e) No lien filed under this article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(f) In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure.

(Ord. No. 95-13, § 1, 4-18-95)

**§ 12-216. Notices.**

Notice shall be provided in accordance with F.S. § 162.12 as amended from time to time.

(Ord. No. 95-13, § 1, 4-18-95; Ord. No. 2011-24, § 4, 10-4-11)

**§ 12-217. Appeals.**

(a) *Notice of violation.* Any owner aggrieved by the findings and order of the code enforcement officer as set forth in section 12-211 shall have the right to appeal said decision prior to the expiration of the time within which such owner was given to correct the nuisance. Any appeal taken pursuant to this section must be requested in writing and received by the city clerk at 201 W. Central Avenue. The enforcement officer will place the appeal on the agenda of the next scheduled regular code enforcement board hearing.

(b) *Final administrative order.* An aggrieved party, including the city, may appeal a final administrative order of the code enforcement board to the circuit court. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(Ord. No. 2011-24, § 4, 10-4-11)

**§ 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 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.

(Ord. No. 2012-17, § 8, 9-18-12)

**§ 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 (1) or more structures, and seeking authorization to collect such special assessments as non-ad valorem property tax pursuant to F.S. ch. 197. 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 article.

(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 Section 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.

(Ord. No. 2012-17, § 8, 9-18-12)

### **Division 3. Supplemental Enforcement Procedures**

#### **§ 12-221. Code enforcement citation system.**

(a) In accordance with F.S. § 162.22, a code enforcement citation system is established to provide a supplemental means of enforcing city codes and ordinances under circumstances which are not conducive to enforcement through procedures provided in division 2.

(b) The provisions of this division are additional and supplemental means of enforcing city codes and ordinances. Nothing contained herein shall prohibit the city from enforcing its codes or ordinances by any other means.

(Ord. No. 95-13, § 1, 4-18-95; Ord. No. 2011-24, § 5, 10-4-11)

### **§ 12-222. Applicability.**

*Effective: Tuesday, July 18, 2017*

(a) A citation may be issued for violation of any city code or ordinance. For the purpose of enforcing codes and ordinances pursuant to the provisions of this division, any such violation shall constitute a civil infraction.

(b) A citation may be issued for commencing any work or conducting any occupation within the incorporated area for which a permit or license is required without first obtaining such permit or license except as provided in subsection (d). For the purpose of enforcing codes and ordinances pursuant to the provisions of this division, any such violation shall constitute a civil infraction.

(c) A citation may be issued at the direction of the city manager for violation of any city code or ordinance not specifically authorized by this section when, in the opinion of the city manager, implementation of the code enforcement citation system is the most effective means of eliminating a serious threat to the public health, safety or welfare. For the purposes of enforcing codes and ordinances pursuant to the provisions of this division, any such violation shall constitute a civil infraction.

(d) The provisions of this division shall not apply to building codes adopted pursuant to F.S. § 553.73, as they apply to construction.

(Ord. No. 95-13, § 1, 4-18-95; Ord. No. 2017-12, § 3, 7-18-2017)

### **§ 12-223. Authority and powers of code enforcement officer.**

(a) A code enforcement officer is authorized to issue a citation to any person when, based upon personal investigation, and not necessarily personal knowledge, the officer has reasonable cause to believe that:

(1) The person has committed a civil infraction in violation of any duly enacted code or ordinance which is enforceable pursuant to this division; and

(2) The county court will hear the charge.

(b) A code enforcement officer shall have no power of arrest nor shall the officer be subject to the provisions of F.S. §§ 943.085 through 943.244.

(c) Refusal to accept a citation issued by a code enforcement officer shall constitute a misdemeanor of the second degree punishable as provided in section 12-225

(Ord. No. 95-13, § 1, 4-18-95)

### **§ 12-224. Procedure.**

(a) Except as provided in subsection (c) below, if a violation is found, the code enforcement officer shall provide notice, prior to issuing a citation, that the person has committed a civil infraction in violation of a city code or ordinance. The officer shall establish a reasonable time period, which shall be no more than thirty (30) days, within which the person must correct the violation.

(b) If, upon personal investigation, the code enforcement officer finds that the person has not corrected the violation within the time period allowed, the officer may issue a citation to the person who has committed the violation.

(c) The code enforcement officer is not required to provide the person with a reasonable time to correct the violation prior to issuing a citation and may immediately issue a citation if the officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(d) A citation issued by the code enforcement officer shall be in a form reviewed by the city attorney and approved by the city manager and shall contain the following information:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the civil infraction was committed.

(4) The facts constituting reasonable cause.

(5) The number or section of the code or ordinance violated.

(6) The name and authority of the code enforcement officer.

(7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(8) The applicable civil penalty if the person elects to contest the citation.

(9) The applicable civil penalty if the person elects not to contest the citation.

(10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(e) After issuing the citation to the alleged violator, the code enforcement officer shall deposit the original and one (1) copy of the citation with the clerk of the county court.

(f) The county court in and for the Tenth Judicial Circuit shall hear and consider charges of code and ordinance violations pursuant to the issuance of citations.

(Ord. No. 95-13, § 1, 4-18-95)

### **§ 12-225. Penalties.**

(a) A violation of a code or ordinance enforced by procedures established in this division is a civil infraction with a maximum civil penalty not to exceed five hundred dollars (\$500.00) per violation.

(b) Fines, penalties and administrative costs to be assessed for uncontested citations shall be established by a uniform fine schedule adopted by resolution of the city commission, said resolution being incorporated herein by reference.

(c) If a citation is issued for a repeat violation and the citation is uncontested, the following shall apply:



(1) Any person who commits a second violation of a code or ordinance shall be assessed a fine as set forth in the next class higher than that of the ordinance violated as specified in the uniform fine schedule, or, if there is not a higher class, an additional one hundred dollars (\$100.00) provided that such fine does not exceed the maximum civil penalty.

(2) Any person who commits a third violation of a code or ordinance shall be assessed a fine as set forth in the class two (2) higher than that of the ordinance violated as specified in the uniform fine schedule, or, if there is not a higher class, an additional one hundred dollars (\$100.00) provided that such fine does not exceed the maximum civil penalty.

(3) Each further repeat violation shall be assessed an additional one hundred dollars (\$100.00) above the amount of fine assessed for the previous violation provided that such fine does not exceed the maximum civil penalty.

(d) Fines, penalties and administrative costs for contested citations shall be set as the court may deem appropriate but shall not exceed the maximum civil penalty.

(e) Any person who willfully refuses to sign and accept a violation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree which is punishable by a fine not exceeding five hundred dollars (\$500.00) or by a definite term of imprisonment in the county jail not exceeding sixty (60) days or by both fine and imprisonment.

(Ord. No. 95-13, § 1, 4-18-95)

#### **Division 4. Minimum Property Maintenance Standards**

##### **§ 12-226. Intent**

*Effective: Tuesday, June 21, 2016*

(a) The provisions of this Division shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

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

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 4, 06-21-16)

##### **§ 12-227. Applicability**

*Effective: Wednesday, September 19, 2018*

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. Chapter 553, Florida Statutes, the Florida Building Code and all referenced standards in the Florida Building Code shall control all matters relating to new building construction, repair and remodeling. 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.

12-227.1 *Maintenance.* Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from, shut off from, or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

12-227.2 *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.

12-227.3 *Existing remedies.* The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

12-227.4 *Workmanship.* Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

12-227.5 *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.

12-227.6 *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.

12-227.7 *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:

- a. Reference to the International Property Maintenance Code, 2015 edition;

- b. Reference to the manufacturer's suggested guidelines or instructions for installation and use;
  - c. Reference to the Florida Building Code or any other applicable building code;
  - d. Reference to the 1997 Uniform Code for the Abatement of Dangerous Buildings;
  - e. Reference to primary law (including federal, state, and local sources);
  - f. 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
  - g. 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.
- h. Any amendment to each of the aforementioned codes or other provisions of law shall include any amendments made from time to time.

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.

12-227.8 *Code Officials*. Each Code Enforcement Officer and Building Official of the City is deemed a "Code Official" for purposes of this code. A code official may only exercise authority in enforcing this code for which the said code official is duly licensed. Code Enforcement is a division of the Department of Planning and Development. Any notices required to be delivered to the Code Official under this code shall be delivered to the responsible Code Official for the case.

12-227.9 *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.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 5, 06-21-16; Ord. No. 2018-06, § 4, 09-19-18)

## **§ 12-228. Severability**

*Effective: Tuesday, January 19, 2016*

If any section, subsection, paragraph, sentence, clause or phrase of this Division is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of these regulations shall continue in full force and effect, it being the intent of the city commission to have adopted these regulations without such unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase.

(Ord. No. 2016-02, § 1, 1-19-16)

## § 12-229. Duties and powers of the code official

*Effective: Tuesday, January 19, 2016*

12-229.1 *Inspections.* The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

12-229.2 *Right of entry.* Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

12-229.3 *Identification.* The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

12-229.4 *Notices and orders.* The code official shall issue all necessary notices or orders to ensure compliance with this code.

12-229.5 *Department records.* The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

12-229.6 *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:

- a. The requested modification is in compliance with the intent and purpose of this code;
- b. The requested modification does not lessen health, life, safety and fire requirements;
- c. 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;
- d. 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;
- e. 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
- f. 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.

*12-229.7 Alternative materials, methods and equipment.* The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

*12-229.8 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.

*12-229.9 Used material and equipment.* The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.

*12-229.10 Approved materials and equipment.* Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

(Ord. No. 2016-02, § 1, 1-19-16)

## **§ 12-230. Unsafe structures and equipment**

*Effective: Wednesday, September 19, 2018*

When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be *placarded* pursuant to the provisions of this code.

§12-230.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

§12-230.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

§12-230.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

§12-230.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

§12-230.5 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.

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

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

g. 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.

h. 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.

i. 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.

j. 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.

k. 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.

§12-230.6 Closing of structures. If a structure is 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 Sec. 12-211 of this code.

Alternatively, should the 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 and by sealing each accessible entrance.

When the Code Official elects to post a "notice " on a 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.

§12-230.6.1 Authority to disconnect service utilities. The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 12-227.6 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to the disconnection the owner or occupant of the building, structure, or service system shall be notified in writing as soon as practical thereafter.



§12-230.7 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.

§12-230.8 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official shall post on the premises or on defective equipment a placard *which includes* a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

§12-230.8.1 Placard removal. The code official shall remove the placard whenever the defect or defects upon which the placarding action were based have been eliminated. Any person who defaces or removes a placard without the approval of the code official shall be subject to the penalties provided by this code.

§12-230.9 Prohibited occupancy. Any structure 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 *penalties of this section*.

§12-230.10 Abatement methods. The owner, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

§12-230.11 Record. The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

§12-230.12 Boarded up structures. No 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 Sec. 12-230.6 of this code.

All structures shall be maintained in accordance with Sec. 12.235.6 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 Sec.12-230.6 of this code does not relieve the owner from complying with this provision.

§12-230.13 *Penalties*: Any person who violates any of the provisions of this section is guilty of a misdemeanor of the second degree, and punishable as provided in F.S. 775.082, and/or 775.083 except that a violation of F.S. 823.10 (Place where controlled substances are illegally kept, sold, or used declared a public nuisance) is a felony of the third degree.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2017-12, § 3, 7-18-2017; Ord. No. 2018-06, § 5, § 6, § 7, § 8, 09-19-2018;)

## § 12-231. Emergency measures

*Effective: Tuesday, June 21, 2016*

Sec. 12-231.1 *Emergency closing.* When,

- a. in the opinion of the Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or
- b. any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or
- c. 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 Sec. 12-231.1 of the Lake Wales Code of Ordinances.

For information, please call the Code Enforcement Division 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 Sec.12-225, Lake Wales Code of Ordinances and may be immediately removed from the structure by City personnel.

Sec. 12-231.2 *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 Sec. 12-230.6 (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.

Sec. 12-231.3 *Closing streets.* When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

Sec. 12-231.4 *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.

Sec. 12-231.5 *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.

Sec. 12-231.6 *Mandatory Hearing; appeal.* Immediately after closing a structure pursuant to Section 12-231.1 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.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 6, 06-21-16)

## **§ 12-232. Definitions**

*Effective: Tuesday, June 21, 2016*

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

*APPROVED.* Approved by the code official.

*BASEMENT.* That portion of a building which is partly or completely below grade.

*BATHROOM.* A room containing plumbing fixtures including a bathtub or shower.

*BEDROOM.* Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

*CODE OFFICIAL* The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

*CONDEMN.* To adjudge unfit for occupancy.

*DETACHED.* When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

*DETERIORATION.* To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

*DWELLING UNIT.* A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

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

*EXTERMINATION.* The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

*GARBAGE.* The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*GUARD.* A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

*HABITABLE SPACE.* Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

*HOUSEKEEPING UNIT* A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

*IMMINENT DANGER* A condition which could cause serious or life-threatening injury or death at any time.

*INFESTATION.* The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

*INOPERABLE MOTOR VEHICLE* ~~OR~~ *VESSEL* A vehicle or vessel which cannot be used for its intended purpose for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its owner power.

*LABELED.* Equipment, materials or products to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

*LET FOR OCCUPANCY OR LET* To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

*NEGLECT.* The lack of proper maintenance for a building or structure.

*OCCUPANCY.* The purpose for which a building or portion thereof is utilized or occupied.

*OCCUPANT.* Any individual living or sleeping in a building, or having possession of a space within a building.

*OPENABLE AREA.* That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

*OPERATOR.* Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

*OWNER.* Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

*PERSON.* An individual, corporation, partnership or any other group acting as a unit.

*PEST ELIMINATION.* The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

*PREMISES.* A lot, plot or parcel of land, easement or public way, including any structures thereon.

*PUBLIC WAY.* Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

*ROOMING HOUSE.* A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as one- or two-family dwelling.

*ROOMING UNIT.* Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

*RUBBISH.* Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

*SLEEPING UNIT.* A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

*STRUCTURE.* That which is built or constructed or a portion thereof.

*TENANT.* A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

*TOILET ROOM.* A room containing a water closet or urinal but not a bathtub or shower.

*VENTILATION.* The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

*WORKMANLIKE.* Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

*YARD.* An open space on the same lot with a structure.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 7, 06-21-16)

## **§ 12-233. Exterior property areas**

*Effective: Thursday, September 19, 2019*

12-233.1 *Sanitation and storage of materials.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition. It shall be the duty of each property owner or household in this city to remove all debris, from his or her property, including the streets, alleys, and sidewalks bordering thereon, and keep same in good, clean, 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, scrap metal, 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 ten (10) 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.

12-233.2 *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

12-233.3 *Sidewalks and driveways.* All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

12-233.4 *Weeds, grass and overgrowth.* All premises and exterior property, other than agricultural, shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height, dead and or downed trees, stumps must be ground to or below grade, low hanging branches must be trimmed to a height of at least six (6) feet above grade. The removal of any tree, four (4) inches or greater in diameter at breast height (DBH), cannot be removed without a permit.

EXCEPTION: Parcels over 10 acres need only mow and clean the first twenty five (25) feet of the perimeter of the property.

12-233.5 *Dead trees, limbs, branches and accumulated landscaping materials.* It shall be the responsibility of the owner and or occupant to remove and/or properly dispose of dead and/or downed trees, limbs, branches, bagged or piled grass clippings, bagged or piled leaves and other piles or accumulations of material resulting from landscaping or maintenance of a parcel of land or lots. Stumps resulting from the removal of dead trees will be ground to or below grade level as to prevent a hazardous condition.

12-233.6 *Tree Declared Nuisance/ Dangerous.*

a) Any tree extending over a street, alley, highway, or parking lot shall be trimmed by the property owner, or his authorized agent, on which the tree trunk is located, so as to provide a clear height above the street, alley, highway, or parking lot of not less than fourteen (14) feet.

b) Any tree extending over a sidewalk, or multi-modal trail shall be trimmed by the property owner, or his authorized agent, so as to provide a clear height above the sidewalk, or multi-modal trail of not less than eight (8) feet.

c) The property owner of any tree which extends over a street, alley, highway, parking lot, sidewalk, or multi-modal trail shall remove any and all dead branches from the tree which, if dislodged, are likely to fall upon the street, alley, highway, parking lot, sidewalk, or multi-modal trail.

d) In the event that the property owner fails to meet the requirements of this section, then the City may issue a written notice of violation to the property owner giving fifteen (15) days to correct the violation. If the violation is not corrected within the given period of time then the City has the option of correcting the violation at the property owner's expense.

12-233.7 *Rodent harborage.* All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

12-233.8 *Exhaust vents.* Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

12-233.9 *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

12-233.10 *Defacement of property.* No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

12-233.11 *Dangerous Conditions - General.*

It is unlawful for any person to maintain or permit the existence of any condition that is a danger to life, health, or property within the City. Dangerous conditions include, but are not limited to, any unsecured structure, structures in violation of the Florida Building Code, The International Property Maintenance Code, The Uniform Code for the Abatement of Dangerous Buildings, trees in danger of falling, all or in part, unprotected excavations, improper storage of hazardous or toxic materials, any abandoned or stored refrigeration unit, appliance, derelict vehicle, derelict vessel, or other condition that could trap a person, in such a place as to be easily accessible to persons without first having made adequate provisions to prevent entry into such without having removed all latches, catches, locking devices or the door thereof, so that escape from the interior may be had, or otherwise ensure lack of access.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 8, 06-21-16; Ord. No. 2018-06, § 9, § 10, § 11, 09-19-18)

## **§ 12-234. Swimming pools, spas and hot tubs**

*Effective: Tuesday, January 19, 2016*

12-234.1 *Swimming pools.* Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

12-234.2 *Enclosures*. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1,219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1,372 mm) above the bottom of the gate, the release mechanism shall be located on the poolside of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

EXCEPTION: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

(Ord. No. 2016-02, § 1, 1-19-16)

## **§ 12-235. Exterior structure**

*Effective: Tuesday, June 21, 2016*

*The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.*

12-235.1 *Protective treatment*. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

12-235.2 *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.

a) Residential property address numbers shall be a minimum of four (4) inches (102 mm) high with a minimum one-half (.5) inch (12.7 mm) stroke width.

b) Commercial property address numbers shall be a minimum of six (6) inches (152.4mm)high with a minimum one-half (.5) inch (12.7 mm) stroke width.

12-235.3 *Structural members*. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

12-235.4 *Foundation walls*. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.



12-235.5 *Exterior walls.* All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

12-235.6 *Roofs and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

12-235.7 *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

12-235.8 *Overhang extensions.* All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

12-235.9 *Stairways, decks, porches and balconies.* Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

12-235.10 *Chimneys and towers.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

12-235.11 *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. Every exterior flight of stairs shall have handrails and guardrails installed in accordance with Chapter 553, Florida Statutes and applicable portions of the Florida Building Code.

12-235.12 *Window, skylight and door frames.* Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

12-235.12.1 *Glazing.* All glazing materials shall be maintained free from cracks and holes.

12-235.12.2 *Openable windows.* Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

12-235.13 *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.

12-235.14 *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.

12-235.15 *Basement hatchways*. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

12-235.16 *Guards for basement windows*. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

12-235.17 *Building security*. Doors, windows or hatchways for dwelling units, rooming units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

12-235.17.1 *Doors*. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

12-235.17.2 *Windows*. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

12-235.17.3 *Basement hatchways*. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

12-235.18 *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.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 8, 06-21-16)

## **§ 12-236. Interior structure**

*Effective: Tuesday, January 19, 2016*

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.

12-236.1 *Structural members*. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

12-236.2 *Interior surfaces*. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

12-236.3 *Stairs and walking surfaces.* Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

12-236.4 *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. Every 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.

12-236.5 *Interior doors.* Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

(Ord. No. 2016-02, § 1, 1-19-16)

## **§ 12-237. Rubbish and garbage**

*Effective: Tuesday, June 21, 2016*

12-237.1 *Accumulation of rubbish or garbage.* All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

12-237.2 *Disposal of rubbish.* Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

12-237.2.1 *Appliances, Refrigerators.* and other Large Waste. Appliances, Refrigerators, and other large waste not in operation shall not be discarded, abandoned or stored on any premises without first securing or removing the doors. (See also §12-233.11 Dangerous Conditions - General.)

12-237.3 *Disposal of garbage.* Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

12-237.3.1 *Containers.* The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 9, 06-21-16)

## **§ 12-238. Pest extermination**

*Effective: Tuesday, June 21, 2016*

12-238.1 *Infestation.* All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

12-238.2 *Owner.* The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

12-238.3 *Single occupant.* The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

12-238.4 *Multiple occupancy.* The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for extermination.

12-238.5 *Occupant.* The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

(Ord. No. 2016-02, § 1, 1-19-16; Ord. No. 2016-08, § 10, 06-21-16)

## **§ 12-239. Sanitary drainage system**

*Effective: Tuesday, January 19, 2016*

All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

12-239.1 *Maintenance.* Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

(Ord. No. 2016-02, § 1, 1-19-16)

## **§ 12-240. Storm drainage**

*Effective: Tuesday, January 19, 2016*

Drainage of roofs and paved areas, yards and courts, and other open areas of the premises shall not be discharged in a manner that creates a public nuisance.

(Ord. No. 2016-02, § 1, 1-19-16)

## **§ 12-241. Electrical equipment**

*Effective: Tuesday, January 19, 2016*

12-241.1 *Installation.* All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

12-241.2 *Receptacles.* Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

(Ord. No. 2016-02, § 1, 1-19-16)

## **§ 12-242. Fire safety requirements**

*Effective: Tuesday, January 19, 2016*

a. 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.

b. 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.

(Ord. No. 2016-02, § 1, 1-19-16)

### **§ 12-243. Fire protection systems**

*Effective: Tuesday, January 19, 2016*

a. 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.

b. 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.

(Ord. No. 2016-02, § 1, 1-19-16)

## ***Article IV. Minimum Property Maintenance Standards [Repealed]***

### **§ 12-226. International property maintenance code adopted. [Repealed & Reenacted]**

*Effective: Tuesday, January 19, 2016*

This code is repealed and reenacted to Article III, Division IV.

(Ord. No. 2012-17, § 3, 9-18-12; Ord. No. 2016-02, § 1, 1-19-16)

### **§ 12-227. Conflicts. [Repealed & Reenacted]**

*Effective: Tuesday, January 19, 2016*

This code is repealed and reenacted to Article III, Division IV.

(Ord. No. 2012-17, § 4, 9-18-12; Ord. No. 2016-02, § 1, 1-19-16)

### **§ 12-228. Modifications, amendments, deletions. [Repealed & Reenacted]**

*Effective: Tuesday, January 19, 2016*

This code is repealed and reenacted to Article III, Division IV.

(Ord. No. 2012-17, § 5, 9-18-12; Ord. No. 2016-02, § 1, 1-19-16)