

ORDINANCE NO. 2016-08-592

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING CHAPTER 154: PROPERTY MAINTENANCE OF THE TONTITOWN MUNICIPAL CODE IN ITS ENTIRETY OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY

WHEREAS, the City Council of Tontitown has adopted Chapter 154: PROPERTY MAINTENANCE of the Tontitown Municipal Code as amended in its entirety; and

WHEREAS, the Tontitown Committee of the Whole has reviewed revisions of Chapter 154: PROPERTY MAINTENANCE and recommends to the City Council that certain revisions be approved; and

WHEREAS, the City Council of the City of Tontitown now finds it to be in the best interest of the citizens of the City of Tontitown to amend Chapter 154: PROPERTY MAINTENANCE of the Tontitown Municipal Code to better provide for property maintenance; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Chapter 154: PROPERTY MAINTENANCE, of the Tontitown Municipal Code should be revised and restated in its entirety as incorporated herein below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the City Council of the City of Tontitown, as follows:

Section 1. Chapter 154: PROPERTY MAINTENANCE, of the Tontitown Municipal Code is hereby revised, in its entirety, and as attached hereto as Exhibit "A".

Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 3. Declaration of Emergency. It is hereby found and determined that Chapter 154: PROPERTY MAINTENANCE, of the Tontitown Municipal Code should be immediately amended in its entirety in order to provide for property maintenance within the City of Tontitown. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the

Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

PASSED AND APPROVED this 7rd day of August, 2016.



Paul Colvin, Jr., Mayor

ATTEST:



Rhonda Ardemagni, City Recorder-Treasurer
(SEAL)

Exhibit “A”

CHAPTER 154: PROPERTY MAINTENANCE

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ADMINISTRATION

§ 154.001 TITLE.

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

(Ord. 2006-01-243, § 154-1, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.002 SCOPE.

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, hearing, 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.

(Ord. 2006-01-243, § 154-2, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.003 INTENT.

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

(Ord. 2006-01-243, § 154-3, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.004 SEVERABILITY.

If a section, subsection, sentence, division, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

(Ord. 2006-01-243, § 154-4, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.005 APPLICABILITY.

The provisions of this code shall apply to all matters affecting or relating to structures and

premises, as set forth in this chapter. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.
(Ord. 2006-01-243, § 154-5, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.006 DEFINITIONS.

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular. Where terms are not defined in this code and are defined in the *Arkansas Fire Prevention Code, Volumes I, II and III*, Tontitown Zoning Code, the *Arkansas Plumbing Code*, the *Arkansas Mechanical Code*, and the *National Electrical Code*, such terms shall have the meanings ascribed to them as in those codes. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit,” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

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.

CODE OFFICIAL. The chief Building Official of the City of Tontitown or his or her designee.

CONDEMN. To adjudge unfit for occupancy.

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

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

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. A vehicle which cannot lawfully be driven upon the public streets for reasons including but not limited to being unregistered, wrecked, dismantled, partially dismantled, abandoned, in a state of disrepair, or incapable of being moved under its own power. A vehicle shall be presumed to be **INOPERABLE** when any of the following conditions exist:

- (1) Weeds and/or grass undergrowth indicates that the vehicle has not moved;
- (2) One or more tires is/are flat or missing for more than 72 hours;
- (3) Portions of the vehicle which are needed for its operation or control are missing;
- (4) Evidence exists that provisions of this code or other existing codes pertaining to zoning or to junk and salvage yards are being violated;
- (5) The vehicle has no current vehicle tags or registration;
- (6) The engine and/or transmission is/are missing;
- (7) Doors, fenders, frames, or axles are missing;
- (8) Windshields and/or windows are broken and/or missing;
- (9) The vehicle cannot move under its own power.

LABELED. Devices, equipment, appliances, or materials to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

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.

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.

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

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

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

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

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

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

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

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

THINGS. Include, but are not limited to: the following items: inoperative motor vehicles; inoperative household or commercial appliances; furniture; building materials; building rubbish; defective septic tanks; human or animal excrement; metal, plastic, or paper containers.

(1) **ABANDONED.** Property to which no person claims or exercises the rights of ownership.

(2) **APPLIANCES.** Refrigerators, deep freezers, stoves, ovens, air conditioners, washers, dryers, trash compactors, dishwashers, televisions, radios, hot water heaters, and plumbing fixtures.

(3) **BUILDING MATERIAL.** Items such as boards, bricks, cement, nails, pipe, sheet metal, siding, tar paper and windows which have never been incorporated into a structure or which have been removed from a structure and may be readily incorporated into another structure. This article applies only to building material which lies in public view and with respect to which its owner has no definite immediate plans for its use.

(4) **BUILDING RUBBISH.** Any post construction solid waste which, because of its quantity, quality or condition, cannot be readily and immediately put to a beneficial use.

(5) **INOPERATIVE.** An item which, by mechanical or physical defect, can no longer be used for its intended purpose and which is not serving a functional purpose. Inoperative, when applied to motor vehicles, refers to any motor vehicle which is inoperable, dismantled, damaged or is unable to start or move under its own power. A vehicle shall be presumed to be inoperative when any of the following conditions exist:

- (a) One or more tires are flat.
- (b) One or more wheels are missing.
- (c) The hood or trunk is raised or missing and has appeared to remain so for more than three days.
- (d) Weeds or grass have grown up around the vehicle.
- (e) The engine is missing.
- (f) The vehicle has no current vehicle tags or registration.
- (g) The door or doors, fender or fenders are removed or missing.
- (h) The front or rear windshield is broken, removed or missing, or the side windows are broken or removed or missing.

(6) **MOTOR VEHICLE.** A self-propelled device that is required under the laws of the State of Arkansas to be licensed in order to be operated upon the public roadways.

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

UNSANITARY. A place, condition or thing is unsanitary when it might become a breeding place for flies, mosquitoes and germs harmful to the health of the community.

UNSIGHTLY. A place, condition or thing is unsightly when it is in public view and offends the then-prevailing standard of the community as a whole, and not limited to a specific area, as to aesthetics or order.

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

WEEDS. Any vegetation, lush or decayed, regardless of its beauty or utility and regardless of the fact that it might serve as a sanctuary for animals beneficial to man. which, because of its natural condition or lack of maintenance by the owner or occupant of the property, threatens the health or safety of the community or creates an unsightly condition thereon.

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

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

(Ord. 2006-01-243, §§ 154-51--154-55, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11; Am. Ord. 2014-06-474, passed 6-3-14)

§ 154.007 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 or 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, occupant, or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

(Ord. 2006-01-243, § 154-6, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.008 APPLICATION OF OTHER CODES.

(A) Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the *Arkansas Fire Prevention Code, Volumes I, II and III*. Other codes referenced herein include the *National Electrical Code*, the *International Building Code*, the *Arkansas Mechanical Code* and the *Arkansas Plumbing Code*.

(B) The codes and standards referenced in this code shall be those that are listed above and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

(C) Nothing in this code shall be construed to cancel, modify or set aside any provisions of the Tontitown Zoning Code.

(Ord. 2006-01-243, §§ 154-7, 154-11, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.009 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 unsanitary.

(Ord. 2006-01-243, § 154-8, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.010 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.

(Ord. 2006-01-243, § 154-9, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.011 HISTORIC BUILDINGS.

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

(Ord. 2006-01-243, § 154-10, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.012 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.

(Ord. 2006-01-243, § 154-12, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.013 LIABILITY.

The government immunity from liability and suit for the city and its employees as determined by Arkansas law shall be applicable to all activities of the city and its employees pursuant to this code.

(Ord. 2006-01-243, § 154-13, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.014 FEES.

All fees shall be in accordance with § [10.99](#) of the Tontitown Code of Ordinances.

(Ord. 2006-01-243, § 154-14, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.015 DUTIES AND POWERS OF THE CODE OFFICIAL.

(A) *General.* The Code Official shall enforce the provisions of this code. An interpretation of any term or provision of this code made by the Code Official may be appealed to the City Council. Such appeal must be made within 14 days of having received notice of violation of this chapter.

(B) *Rule-making authority.* The Code Official shall have authority as necessary in the interest of public health, safety and general welfare; to adopt the promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

(C) *Inspections.* The Code Official shall make all 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.

- (D) *Right of entry.* The Code Official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Code Official is authorized to pursue recourse as provided by law.
- (E) *Identification.* The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.
- (F) *Notices and orders.* The Code Official shall issue all necessary notices or orders to ensure compliance with this code.
- (G) *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.
- (H) *Coordination of inspections.* Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one Code Official of the jurisdiction is involved, it shall be the duty of the Code Officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within that inspector's authority to enforce, that inspector shall report the findings to the Code Official having jurisdiction.
(Ord. 2006-01-243, §§ 154-15--154-22, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.016 APPROVAL.

- (A) *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this code, the Code Official shall have the authority to grant modifications for individual cases, provided the Code Official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.
- (B) *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. Any alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and in compliance 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.
- (C) *Required testing.* Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.
- (1) *Test methods.* Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency.

(2) *Test reports.* Reports of tests shall be retained by the Code Official for the period required for retention of public records.

(D) *Materials and equipment reuse.* 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.

(Ord. 2006-01-243, §§ 154-23--154-26, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.017 VIOLATIONS.

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

(B) *Notice of violation.* The Code Official shall serve a notice of violation or order in accordance with § [154.018](#).

(C) *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with § [154.018](#) shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate pursuant to Arkansas law.

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

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

(Ord. 2006-01-243, §§ 154-27--154-31, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.018 NOTICES AND ORDERS.

(A) *Notice to person responsible.* Whenever the Code Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in divisions (B) and (C) below to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with § [154.029](#)(A).

(B) *Form.* Such notice prescribed in division (A) above shall be in accordance with all of the following:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the violation or violations and why the notice is being issued;
- (4) Include a correction order allowing seven days to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code; and

- (5) Include a statement of the right to file a lien in accordance with § [154.017](#)(C).

(C) *Method of service.* Such notice shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally;
- (2) Sent by certified or first-class mail addressed to the last known address; or
- (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

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

(E) *Penalties.* Penalties for noncompliance with orders and notices shall be as set forth in [§ 154.017\(D\)](#).

(Ord. 2006-01-243, §§ 154-32--154-36, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

Statutory Reference:

Notice to unknown or nonresident owners, see A.C. §§ 14-54-902

UNSAFE STRUCTURES OR EQUIPMENT

§ 154.025 GENERAL.

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

(A) *Unsafe structure.* 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.

(B) *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.

(Ord. 2006-01-243, §§ 154-37--154-37.2, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.026 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 unsanitary, vermin- or rat-infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by

this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(Ord. 2006-01-243, § 154-37.3, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.027 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.

(Ord. 2006-01-243, § 154-37.4, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.028 CLOSING OF VACANT AND UNFIT STRUCTURES.

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

(Ord. 2006-01-243, § 154-38, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.029 NOTICE AND PLACARDING.

(A) Whenever the Code Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with [§ 154.018\(C\)](#). If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in [§ 154.018\(B\)](#).

(B) *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 bearing the word “Condemned” and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(C) *Prohibited occupancy.* Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by the code.

(D) *Placard removal.* The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties provided by this code.

(Ord. 2006-01-243, §§ 154-39--154-40.2, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

EMERGENCY MEASURES AND DEMOLITION

§ 154.035 IMMINENT DANGER.

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

(Ord. 2006-01-243, § 154-41, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.036 TEMPORARY SAFEGUARDS.

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

(B) *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, street public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.
(Ord. 2006-01-243, §§ 154-42--154-43, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.037 EMERGENCY REPAIRS.

(A) For the purposes of this section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

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

(Ord. 2006-01-243, §§ 154-44--154-45, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.038 HEARING.

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

(Ord. 2006-01-243, § 154-46, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.039 GENERAL DEMOLITION AND SALVAGE REGULATIONS.

(A) The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or

occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or, if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or, where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

(B) *Notices and orders.* All notices and orders shall comply with § [154.018](#) of the Tontitown Code of Ordinances.

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

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

(Ord. 2006-01-243, §§ 154-47--154-50, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

MAINTENANCE OF STRUCTURES, EQUIPMENT AND EXTERIOR PROPERTY

§ 154.045 SCOPE AND RESPONSIBILITY.

(A) *Scope.* The provisions of this subchapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

(B) *Litter.* No person within the city shall throw, discard, deposit or scatter upon any sidewalk, alley, street, bridge, public passageway, or other public thoroughfare, public park, public beach or upon any private property owned by another person, any garbage, debris, trash or any other waste product of any kind.

(C) *Responsibility.* The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this subchapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

(Ord. 2006-01-243, §§ 154-56--154-57, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.046 VACANT STRUCTURE AND LAND.

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

(Ord. 2006-01-243, § 154-58, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

 **§ 154.047 EXTERIOR PROPERTY AREAS.**

(A) All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition. Owners or occupants of real property within the corporate limits of the city are hereby required to cut weeds, remove garbage, rubbish, inoperative motor vehicles or other unsightly or unsanitary things: and eliminate, fill up or remove stagnant pools of water or any other unsanitary thing, place or condition upon their real property.

(B) (1) It shall be unlawful for the owner or occupant of real property to permit the accumulation or development of weeds, garbage, rubbish, inoperative motor vehicles or other unsightly or unsanitary things or conditions on real property within the city.

(2) Exception. This section of the Code of Ordinances does not apply to any motor vehicle held in conjunction with a business enterprise lawfully licensed by the city for the storage, servicing, or repair of motor vehicles so long as the property is located in the appropriate zone pursuant to the zoning ordinances of the city, and meets the other qualifications for such business enterprise as set out in the Code of Ordinances of the city.

(C) (1) All promises 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. The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be permitted to reclaim gullies and ravines upon application to, and approval by, the city planning commission under the following conditions:

(a) Written certification by the applicant that he is the legal owner of the property or that he has the written permission of the property owner.

(b) Access must be completely restricted to the applicant only.

(c) All material must lie covered by fill dirt and smoothed over at intervals not to exceed two weeks.

(2) Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to divisions (A) and above of this section.

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

(E) *Weeds.* Owners or occupants of real property contained within the City of Tontitown shall keep their property maintained free of unsightly weeds and plant growth as defined by [§154.006](#) of the Code of Ordinances for the City of Tontitown except that on all properties not located within platted subdivisions, not zoned residential, and which are being used primarily for agricultural purposes, the owner or occupant of said property shall not allow weeds or plant growth over 12 inches in height within 12 feet from any adjacent property located in a platted subdivision or which is zoned residential or is a city street right-of-way.

(F) *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 process which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

(G) *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.

(H) *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
(Ord. 2006-01-243, §§ 154-59--154-65, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11; Am. Ord. 2013-03-413, passed 3-5-13)

Statutory reference:

Litter Control Act, see A.C. §§ 8-6-401 et seq.

Municipal authority regarding weeds, rubbish, unsanitary conditions generally, see A.C. §§ 14-54-901 et seq.

 **§ 154.049 EXTERIOR STRUCTURE.**

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

(B) *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.

(1) 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.

(2) 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 water-tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces bearing rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

(3) Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(C) *Premises identification.* Buildings shall have approved address markings in accordance with §§ 152.1500 *et seq.* of the Tontitown Code of Ordinances.

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

(E) *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.

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

(G) *Roofs and drainage.*

(1) The roof and flashing shall be sound, tight and not have defects that admit rain.

(2) Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure.

(3) Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.

(4) Roof water shall not be discharged in a manner that creates a public nuisance.

(H) *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.

(I) *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.

(J) *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.

(K) *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.

(L) *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.

(M) *Windows, skylights, and door frames.*

(1) Every window, skylight, and door frame shall be kept in sound condition, good repair and weather-tight. All glazing materials shall be maintained free from cracks and holes.

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

(3) *Insect screens.*

(a) 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 16 mesh per inch (16 mesh per 22mm) and every swinging door shall have a self-closing device in good working condition.

(b) *Exception.* Screens shall not be required where other approved means, such as air curtains or insect-repellent fans, are employed.

(N) *Doors.* All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, room units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with § 154.116(C).

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

(P) *Rodent prevention 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.

(Ord. 2006-01-243, §§ 154-68--154-84, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.050 BUILDING SECURITY.

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

(B) *Windows.* Operable windows located in whole or in part within six feet (1,828mm) 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 window-sash locking devices.

(C) *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.

(Ord. 2006-01-243, §§ 154-85--154-85.2, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.051 INTERIOR STRUCTURE.

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

(B) *Structural members.* All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

(C) *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.

(D) *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. 2006-01-243, §§ 154-86--154-88, 154-91, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.052 STAIRS AND WALKING SURFACES.

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

(Ord. 2006-01-243, § 154-89, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.053 HANDRAILS AND GUARDS.

(A) *General.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(B) *Specific requirements.*

(1) Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762mm) above the floor or grade below shall have guards.

(2) Handrails shall not be less than 30 inches (762mm) high or more than 42 inches (1067mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces.

(3) Guards shall not be less than 30 inches (762mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

(C) *Exception.* Guards shall not be required where exempted by the adopted building code.

(Ord. 2006-01-243, §§ 154-90, 154-92, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.054 RUBBISH AND GARBAGE.

- (A) *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.
- (B) *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.
- (C) *Rubbish storage facilities.* The owner or occupant of every occupied premises shall supply approved covered containers for rubbish, and the owner or occupant of the premises shall be responsible for the removal of rubbish.
- (D) *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.

(Ord. 2006-01-243, §§ 154-93--154-95, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.055 EXTERMINATION.

- (A) *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 reinfestation.
- (B) *Owner.* The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
- (C) *Single occupant.* The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.
- (D) *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, or is caused by failure of an occupant to prevent such infestation in the area occupied, that occupant shall be responsible for extermination.
- (E) *Occupant.* The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.
- (F) *Exception.* Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

(Ord. 2006-01-243, §§ 154-96--154-100, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.056 INOPERABLE VEHICLES.

- (A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTOMOBILE REPAIR SHOP. Any business which engages in the repair or servicing of vehicles.

CURTILAGE. The area immediately surrounding a house or home, including, but not limited to: any driveway, carport, or non-enclosed garage, any fenced-in area, and any area within 200 yards of a residence.

DEMOLISHER. Any person whose business, to any extent or degree, is to convert a motor vehicle or household appliance into processed scrap or scrap metal, into saleable parts, or

otherwise to wreck or dismantle vehicles or appliances.

EXPEDITIOUS REPAIR.

- (a) The parts for repair have been ordered but are not yet available for installation for reasons beyond the owner's control;
- (b) The vehicle is scheduled to be repaired within 30 days; or
- (c) The vehicle is inoperable because of an accident and the owner is pursuing a claim for damages.

INOPERABLE VEHICLE. Any vehicle which is inoperable, dismantled, or damaged and that is unable to start and move under its own power.

JUNK VEHICLE. Junked, dismantled, or wrecked automobiles, or parts thereof, pursuant to A.C. § 27-74-402.

SALVAGE YARD. Any business that, in the course of its operation, maintains ten or more vehicles to be used, wholly or in parts, to generate revenue for the operation of the business.

VEHICLE. Includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(B) Prohibition.

(1) It shall be unlawful for any person to place, or cause to be placed, any junk vehicle, inoperable old vehicle or part thereof, upon any private property unless it is at a salvage yard, automobile repair shop, or at the business establishment of a demolisher.

(2) The location or presence of any inoperable or junked vehicle or inoperable or junked vehicles on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, except as excluded in subsection (1) of this division, shall, be deemed a public nuisance and it shall be unlawful for any person or persons to cause or maintain such public by wrecking, dismantling, rendering inoperable, abandoning or discarding his, her, or their vehicle or vehicles on the property of another or to suffer, permit or allow the same to be placed, located, maintained or exist upon his, her, or their own real property.

(3) This section shall not apply to:

- (a) A vehicle or part thereof which is completely enclosed within a building or fence in a lawful manner where it is not visible from the street or other public or private property;
- (b) Any motor vehicle which can be started and moved under their own power;
- (c) Antique automobiles, provided such is at least 25 years old and is restored to operating condition;
- (d) Any motor vehicle which is being expeditiously repaired; and
- (e) Any automobile that is considered a historic or special interest vehicle pursuant to

A.C. § 27-15-2207.

(C) Violations; notice and opportunity for hearing.

(1) When the city believes that a vehicle is being maintained in violation of this section, Tontitown Code Enforcement shall give the private property owner and the owner of the motor vehicle, if ascertainable, 30 days' notice by registered or certified mail that the vehicle shall be towed at the owner's expense unless the motor vehicle is restored to a functional use, disposed of by the owner in a manner not prohibited by this subchapter, or placed in an enclosed building.

- (2) The notice shall contain a description of the inoperable vehicle(s), the license numbers of the inoperable vehicles (if known) and the address where the inoperable vehicles are being improperly stored.
 - (3) The notice shall inform the recipient that he or she may request a hearing within 30 days of the date of the letter in front of the Hearing Panel to determine if there is a violation.
 - (4) This notice shall include the name, address and phone number (and email address, if applicable) that the recipient may contact to set up the hearing.
 - (5) The notice shall contain a copy of this section.
 - (6) If it is impossible to determine with reasonable certainty the identity and addresses of the private property owner or the owner of the motor vehicle, then notice shall be given as provided in A.C. § 14-54-902.
 - (7) The 30 days' notice may be waived by the owners of the inoperable vehicle.
- (E) *Hearing and post-hearing.*
- (1) The Planning Commission shall conduct all hearings pertaining to inoperable vehicles or junk vehicles. At the hearing before the Planning Commission, the recipients of the notice or their designated representative shall be provided with a copy of this section and be presented with the basis of the belief that the vehicle is being maintained in violation of this section.
 - (2) At the hearing the recipients of the notice or their designated representative shall be given an opportunity to prove that the vehicle(s) in question is not being maintained in violation of this section, or is being expeditiously repaired.
 - (3) The Planning Commission shall inform the parties present of their decision at the conclusion of the hearing.
 - (4) Within three days of the hearing, Tontitown Code Enforcement shall send to the private property owner, the owner of the motor vehicle, and all persons present at the hearing by registered or certified mail a notice informing them of the outcome of the hearing and the opportunity to appeal the decision to the appropriate state circuit court, including the address and phone number of the court.
 - (5) The post-hearing notice shall inform the recipients that the inoperable vehicle(s) in question will be towed at their expense within ten days of the date of the hearing, or the expiration of the original 30 days' notice, whichever is longer.
- (F) *Removal of the inoperable or junk vehicle(s).*
- (1) At the conclusion of the post-hearing notice period (as provided for in division (E)(5) of this section), the city official charged with enforcement of this section shall instruct and authorize the Washington County Sheriff's Department to have the inoperable vehicle(s) towed.
 - (2) This authorization shall not be given if the violation of this section has been corrected and the vehicle(s) is no longer inoperable, or has been completely enclosed within a building or fence in a lawful manner where it is not visible from the street or other public or private property.
 - (3) The Washington County Sheriff's Department shall be required to obtain and serve a warrant authorizing the seizure and removal of any inoperable vehicle located within the curtilage of a house or home.
- (G) *Post removal.*
- (1) The enforcement agency which takes into custody and possession any junk or inoperable motor vehicle, within 30 days after taking custody and possession thereof,

shall notify the last known registered owner of the motor vehicle and all lienholders of record by registered or certified mail, return recipient requested, that the motor vehicle has been taken into custody and possession.

(2) The notice shall:

(a) Contain a description of the motor vehicle, including the year, make, model, manufacturer's serial or identification number, or any other number which may have been assigned to the motor vehicle by the Office of Motor Vehicles and shall note any distinguishing marks.

(b) Set forth the location of the facility where the motor vehicle is being held and the location where the motor vehicle was taken into custody and possession; and

(c) Inform the owner and any lienholders of record of their right to reclaim the motor vehicle within ten days after the date notice was received by the owner or lienholders upon payment of all towing, preservation, and storage charges resulting from taking and placing the motor vehicle into custody and possession and state that the failure of the owner or lienholders of record to exercise their right to reclaim the motor vehicle within the ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title, and interest in the motor vehicle and of their consent to the sale and disposal of the junk vehicle at a public auction or to a salvage yard or demolisher.

(3) If the identity of the last registered owner of the junk or inoperable motor vehicle cannot be determined, if the certificate of registration or certificate of title contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, then notice shall be served as provided in A.C. § 14-54-902.

(4) The consequences and effect of failure to reclaim an inoperable vehicle within the ten-day period after notice is received by registered or certified mail or within ten days after the notice is published in a newspaper as prescribed shall be set forth in the notice.

(H) *Sale.*

(1) If an inoperable or junk vehicle is not reclaimed, the enforcement agency in possession of the inoperable vehicle shall sell it either at a public auction or to a salvage yard or demolisher. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, and shall receive a sales receipt from the enforcement agency which disposed of the motor vehicle. The sales receipt at the sale shall be sufficient title only for purposes of transferring the motor vehicle to a salvage yard or to a demolisher for demolition, wrecking, or dismantling. No further titling of the motor vehicle shall be necessary by either the purchaser at the auction, the salvage yard, or the demolisher, who shall be exempt from the payment of any fees and taxes.

(2) From the proceeds of any sale, the enforcement agency which sold the inoperable vehicle shall reimburse itself for any expenses it may have incurred in removing, towing, preserving, and storing the property and for the expenses of conducting any auction and any notice and publication expenses incurred pursuant to this section.

(3) Any remainder from the proceeds of the sale shall be held for the last registered owner of the motor vehicle or any lienholder for 90 days, after which time, if no owner or lienholder claims the remainder, it shall be deposited with the city's funds.

(4) The city shall retain all rights and remedies contained in A.C. §§ 14-54-903 and 14-54-905.

(Ord. 2009-09-342, passed 9-1-09; Am. Ord. 2009-10-345, passed 10-6-09; Am. Ord. 2011-12-

384, passed 12-6-11)

 **§ 154.057 LIEN AGAINST REAL PROPERTY; NOTICE OF ABANDONED, INOPERATIVE VEHICLE.**

(A) If the owner or occupant of any real property within the corporate limits of the city neglects or refuses, after being given seven days' written notice by the Police Department or code enforcement officers of the city, to remove, abate or eliminate any condition referred to in § 154.047, the city will do whatever is necessary to correct the condition and will charge the cost of the correction to the property owner to secure its costs; the city will perfect a lien against the affected property pursuant to A.C. §§ 14-54-903 et seq.

(B) Before any abandoned or inoperative motor vehicle is taken into custody and possession from private property, the city shall give the private property owner or occupant and the owner of the motor vehicle, if ascertainable, 30 days' notice by registered or certified mail that such action will be taken unless the motor vehicle is restored to a functional use, disposed of in a manner not prohibited by A.C. §§ 8-6-401, et seq. or placed in an enclosed building. The 30-day notice may be waived by the owner or occupants of the property jointly and severally.

(C) Any owner/occupant shall be presumed to have notice for the violation if the owner/occupant has received notice of a similar type violation within the previous one year.

(D) The lien provided for in A.C. § 14-54-903 may be enforced and collected in either one of the following manners:

(1) At any time within ten years after a lien has been filed, by an action for foreclosure in the circuit court; or

(2) The amount of the lien may be determined at a hearing before the City Council held after 30 days' written notice by certified mail to the owner of the property if the name and whereabouts of the owner are known. If the name of the owner cannot be determined, then the amount will be determined only after publication of notice of the hearing in a newspaper having a bona fide circulation in the county where the property is located for one insertion per week for four consecutive weeks. The determination of the City Council is subject to appeal by the property owner in the circuit court. The amount so determined at the hearing, plus ten percent penalty for collection, shall be certified by the city to the tax collector of the county and placed on the tax books as delinquent taxes, and collected accordingly. The amount, less three percent thereof, when so collected shall be paid to the city by the County Tax Collector.

(E) In addition to any liens provided for in this subchapter, any violation of this subchapter by a property owner and/or person holding a possessory interest in the property, such as a leasehold tenant, are punishable by those penalties prescribed in this code.

(Ord. 2011-12-384, passed 12-6-11)

Statutory reference:

Enforcement of lien, see A.C. §§ 14-54-904

 **§ 154.058 DISCARDED REFRIGERATORS, OTHER AIRTIGHT CONTAINERS.**

No person shall leave or permit to remain outside of a dwelling, building or other structure, or within an unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children an abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid. snap lock or other locking device which cannot be opened by pushing from the inside, without first removing the door or lid. snap lock or other

locking device.
(Ord. 2011-12-384, passed 12-6-11)

§ 154.059 GRAFFITI.

- (A) **GRAFFITI** means and includes any unauthorized inscription, word, figure or design or collection thereof, which is marked, etched, scratched, painted, drawn or printed on any structural component of any building structure or other facility, regardless of the nature of the material of that structural component.
- (B) The existence of graffiti on buildings, or on structures, including but not limited to, fences or walls, located upon any property in the city is declared a nuisance.
- (C) Whenever the city becomes aware of the existence of graffiti visible from the public right-of-way on any property, including structures or improvements within the city, the Police Department, upon such discovery, shall give or cause to be given, notice to the owner of the property or the properly owner's agent, and/or any leasehold tenant, to take corrective action and remove the graffiti from the property within seven days from the date the notice is served.
- (D) If the graffiti is not removed by the owner in the required time provided by the previous section in this article, then the city shall have the right to enter upon private property to the extent necessary to take corrective action. The city may then seek the cost of the graffiti removal from the property owner and/or leasehold tenant.
- (E) Possession of spray paint and markers with intent to make graffiti is prohibited. No person shall carry an aerosol spray paint can or broad tipped indelible marker with the intent to make graffiti.

(Ord. 2011-12-384, passed 12-6-11)

MECHANICAL AND ELECTRICAL REQUIREMENTS

§ 154.100 SCOPE AND RESPONSIBILITY.

- (A) *Scope.* The provisions of this subchapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.
- (B) *Responsibility.* The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this subchapter.

(Ord. 2006-01-243, §§ 154-139--154-140, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.104 ELEVATORS, ESCALATORS AND DUMBWAITERS.

(A) *General.* Elevators, dumbwaiters and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator.

(B) *Elevators.*

(1) In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

(2) *Exception.* Buildings equipped with only one elevator shall be permitted to have the

elevator temporarily out of service for testing or servicing.

(Ord. 2006-01-243, §§ 154-158--154-159, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

FIRE SAFETY REQUIREMENTS

§ 154.115 SCOPE AND RESPONSIBILITY.

(A) *Scope.* The provisions of this subchapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

(B) *Responsibility.* The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this subchapter.

(Ord. 2006-01-243, §§ 154-161--154-162, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.116 MEANS OF EGRESS.

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

(B) *Aisles.* The required width of aisles in accordance with the *Arkansas Fire Prevention Code, Volume I* shall be unobstructed.

(C) *Locked doors.* All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *Arkansas Fire Prevention Code, Volume II*.

(D) *Emergency escape openings.* Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided:

(1) The minimum net clear-opening size complies with the code that was in effect at the time of construction; and

(2) Such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

(Ord. 2006-01-243, §§ 154-163--154-166, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

§ 154.117 FIRE-RESISTANCE RATINGS.

(A) *Fire-resistance-rated assemblies.* The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

(B) *Opening protectives.* Required opening protectives shall be maintained in an operative condition. All fire- and smoke-stop doors shall be maintained in operable condition. Fire doors and smoke-barrier doors shall not be blocked or obstructed or otherwise made inoperable.

(Ord. 2006-01-243, §§ 154-167--154-168, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)

 **§ 154.118 FIRE PROTECTION SYSTEMS.**

(A) *General.* 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 *Arkansas Fire Prevention Code, Volume I.*

(B) *Smoke alarms.*

(1) Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-1, R-2, R-3 and in dwellings not regulated in Group R occupancies, regardless of occupant load, at all of the following locations:

(a) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(b) In each room used for sleeping purposes.

(c) In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(2) Single or multiple-station smoke alarms shall be installed in other Groups in accordance with the *Arkansas Fire Prevention Code, Volume I.*

(C) *Smoke alarm power sources.*

(1) In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

(2) *Exception.* Smoke alarms are permitted to be solely battery-operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

(D) *Smoke alarm interconnection.*

(1) Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-1, R-2, R-3 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

(2) *Exceptions.*

(a) Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.

(b) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

(Ord. 2006-01-243, §§ 154-169--154-172, passed 1-3-06; Am. Ord. 2011-12-384, passed 12-6-11)