

CITY OF OBERLIN, OHIO

ORDINANCE No. 22-32 AC CMS

AN ORDINANCE TO ENACT NEW CHAPTER 1153 OF THE OBERLIN CODIFIED ORDINANCES TO PROVIDE FOR ADMINISTRATIVE PENALTIES FOR PROPERTY MAINTENANCE CODE VIOLATIONS WITHIN THE CITY OF OBERLIN.

WHEREAS, to provide for the issuance of administrative penalties for property maintenance violations, to clarify the responsibilities of owners and occupants with regard to the maintenance of dwelling units, to provide for the vacation, condemnation and reoccupation of dwelling unit and to provide for space, use and location requirements it is desirable to enact regulations in addition to those currently in effect.

.NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio:

SECTION 1. That new Chapter 1153 of the Codified Ordinances of the City of Oberlin, Ohio be and is hereby enacted as is set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance shall take effect on the earliest date provided by law.

PASSED: 1st Reading: June 6, 2022
2nd Reading: June 21, 2022
3rd Reading: July 5, 2022

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



BRYAN BURGESS
PRESIDENT OF COUNCIL

POSTED: 07/06/2022

EFFECTIVE DATE: 08/04/2022

EXHIBIT A
Ordinance No. 22-32

CHAPTER 1153
Environmental Health Housing Code

- 1153.01 Definitions.
- 1153.02 Notice of violation.
- 1153.03 Notice of violation requiring demolition.
- 1153.04 Space, use and location requirements.
- 1153.05 Responsibility of Owners and Occupants.
- 1153.06 Vacating unfit Dwellings or premises.
- 1153.07 Public nuisance.
- 1153.08 Condemnation placard.
- 1153.09 Reoccupation.
- 1153.10 Entering a condemned Dwelling.
- 1153.11 Vacant Dwelling.
- 1153.12 Removal of placard.
- 1153.13 Incorporation and Application of other Codes
- 1153.14 Conflict and invalidity.
- 1153.15 Warranties and liability.
- 1153.99 Penalty/Appeal

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26 et seq.

1153.01 DEFINITIONS.

(a) For the purpose of this Chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

"BASEMENT" means a portion of a building that is partly or completely below grade.

"BUILDING CODE" means Part 11 of the Codified Ordinances of the City of Oberlin.

"DWELLING" means any Dwelling, Dwelling unit, building, structure, rooming house, rooming unit, hotel, or other living quarters used, intended to be used or designed to be used, in whole or in part, for living or sleeping by human Occupants.

"DWELLING UNIT" means any room or group of rooms located within a Dwelling and forming a single habitable unit with facilities, which are used, intended to be used or designed to be used for living, sleeping, cooking, and eating.

"EXISTING DWELLING" means any Dwelling constructed under, and in full compliance with, codes in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted in accordance with plans

which have been approved prior to the effective date of the Environmental Health Housing Code.

"EXTERMINATION" means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the Erie County Health Department.

"FIRE PREVENTION CODE" means Part 15 of the Codified Ordinances of the City of Oberlin.

"FIRE STAIRS" means an exterior stairway 22" wide with handrails, and guardrails with intermediate balusters with access from either a 30" wide exterior door or an emergency escape window with a 44" interior sill height, 20" minimum width, 24" minimum height with a total of 5.7 square feet minimum and with wired-glass opening protection provided for all windows both above and below the path of the stairway.

"GARBAGE" means the vegetable and animal wastes resulting from the handling, preparation and consumption of foods, and any unwashed containers that previously contained food or liquid prepared or proposed for human or animal consumption.

"HABITABLE ROOM" means a room or enclosed floor space used, intended to be used or designed to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communication corridors, closets, and storage spaces.

"HEALTH, SAFETY AND SANITATION CODE" means Chapter of the Codified Ordinances of the City of Oberlin.

"HOUSING CODE" means this Environmental Health Housing Code.

"HOUSING CODE COMPLIANCE OFFICER" means the City of Oberlin Code Enforcement Official or any duly authorized representative.

"INFESTATION" means the presence within or around a Dwelling, of any insects, rodents, or other pests.

"MULTIPLE DWELLING" means a Dwelling containing more than one Dwelling unit.

"OCCUPANT" means any person over one year of age living, sleeping, cooking, or eating in, or having actual possession of a Dwelling unit or rooming unit.

"OPERATOR" means any person who, alone or jointly or severally with others, has charge, care or control of any premises, or part thereof, in which there are one or more Dwelling units or rooming units, whether as Owner, manager, agent of the Owner, or due to conduct that demonstrates the person's position of responsibility concerning the Dwelling or rooming unit.

"OWNER" means any person who, alone or jointly or severally with others, has legal title to any Dwelling or Dwelling unit, with or without accompanying actual possession thereof, or is the vendor or vendee under a land contract, whether recorded or not, or is the executor, executrix, administrator, administratrix, trustee, or guardian of the estate of either the person with legal title or the land contract vendor or vendee.

"PERSON" means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, or any entity recognized by law.

“PLUMBING” means all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections installed or connected to water, sewer, or gas lines.

“PREMISES” means not only the Dwelling and any other building of any kind or nature located on the lot, but also the entire parcel of land surrounding the buildings, including, but not limited to, fences, walkways, walls, and appurtenances.

“RENTAL UNIT” means a Dwelling unit or rooming unit not occupied by the person with legal title. Rental unit shall not include hotels for registration purposes as they are licensed by the State of Ohio.

“ROOMING UNIT” means any room or group of rooms forming a single habitable unit used, intended to be used or designed to be used for living and sleeping but not for cooking or eating purposes.

“RUBBISH” means combustible and noncombustible waste materials, except garbage, including the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, plastics, dust, and other like materials.

“SUPPLIED” means paid for, furnished, or provided by, or under the control of, the Owner or Operator.

“ZONING CODE” means Part 13 of the Codified Ordinances of the City of Oberlin

(b) Whenever the words “DWELLING,” “DWELLING UNIT,” “ROOMING UNIT,” or “PREMISES” are used in this Chapter, they shall be construed as though they were followed by the words “or any part thereof.”

1153.02 NOTICE OF VIOLATION.

(a) Whenever the Housing Code Compliance Officer determines that there has been a violation of any of the provisions of this Chapter, he or she shall give notice of the violation to the person(s) responsible therefor and order compliance, as herein provided. The notice and order shall:

(1) Be put in writing on an appropriate form as the Department of Planning and Development shall determine;

(2) Include a list of violations, refer to the sections and divisions violated and order remedial action which will effect compliance with the provisions of this Chapter;

(3) Specify a reasonable time within which to comply; and

(4) Be served on the Operator, Owner or Occupant, personally, or by certified mail and regular mail to the person’s residence, regular place of business or last known address. If the certified or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person’s residence, regular place of business, last known address or the building affected.

(b) Whenever a person violates or fails to comply with any of the provisions of this Chapter, the Housing Code Compliance Officer shall have the authority to impose an

administrative penalty. The Housing Code Compliance Officer shall consider the following criteria in assessing an administrative penalty:

- (1) The extent to which the person has benefited by the violation of this Chapter;
- (2) The degree of harm to the public health, safety, welfare and aesthetics as a result of the violation of this Chapter;
- (3) The recidivism of the person, including previous notices and orders to comply and previous enforcement action;
- (4) Good faith efforts of the person to remedy the violation of this Chapter; and
- (5) The duration of the violation after a notice and order to comply was served pursuant to Section 1153.05

(c) The imposition of an administrative penalty shall be accomplished only after a notice and order is provided to the Occupant, Operator and Owner. Notice of a decision imposing an administrative penalty shall:

- (1) Be put in writing on an appropriate form as the Department of Planning and Development shall determine;
- (2) State the basis for the administrative penalty, including the section of this Chapter that has been violated;
- (3) Specify the date and manner by which the penalty must be paid; and
- (4) Be served in accordance with the notice requirements set forth in Chapter 1151 of these Codified Ordinances.

1153.03 NOTICE OF VIOLATION REQUIRING DEMOLITION.

Whenever the Housing Code Compliance Officer determines that the violations of this Chapter are so extensive that the City intends to demolish or repair the Dwelling, structure and/or the Premises due to the Dwelling being insecure, unsafe, or structurally defective, the notice and order shall be served in accordance with the notice requirements set forth in Chapter 1151 of these Codified Ordinances.

1153.04 SPACE, USE, AND LOCATION REQUIREMENTS.

(a) Floor Space. Every Dwelling unit shall contain at least 150 square feet of floor space for the first Occupant thereof and at least 100 additional square feet of floor space for every additional Occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(b) Sleeping Areas. In every Dwelling unit of two or more rooms, every room occupied for sleeping purposes by one Occupant shall contain at least 70 square feet of floor space and every room occupied for sleeping purposes by more than one Occupant shall contain at least 50 additional square feet of floor space for each additional Occupant thereof.

(c) Bathroom Access. No Dwelling or Dwelling unit containing two or more sleeping rooms shall have the rooms arranged such that access to a bathroom or water closet compartment, intended for use by Occupants of more than one sleeping room, can be had only by going through another sleeping room, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom, or water closet compartment.

(d) **Ceiling Height.** At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

1153.05 RESPONSIBILITY OF OWNERS AND OCCUPANTS.

(a) **Owner to Maintain Sanitary Conditions.** Every Owner of a Dwelling containing two or more Dwelling units shall be responsible for maintaining, in a clean and sanitary condition, the common or public areas of the Dwelling and premises thereof. Every Owner of a vacant Dwelling or premises shall keep the Dwelling and premises in a clean and sanitary condition.

(b) **Occupant to Maintain Sanitary Condition.** Every Occupant of a Dwelling or Dwelling unit shall keep in a clean and sanitary condition and in good repair that part of the Dwelling, Dwelling unit, and premises thereof which he occupies and controls.

(c) **Disposal of Garbage and Rubbish.** Every Occupant of a Dwelling or Dwelling unit shall dispose of all his garbage, rubbish, and any other organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the garbage or rubbish disposal facilities or garbage storage containers. It shall be the responsibility of the Owner to supply the facilities or containers for all Dwelling units in a Dwelling containing more than two Dwelling units and for all Dwelling units located on premises where more than two Dwelling units share the same premises. In all other cases, it shall be the responsibility of the Occupant to furnish the facilities or containers.

(d) **Screens and Storm Windows.** Every Occupant of a Dwelling or Dwelling unit shall be responsible for hanging all screens, double or storm doors, and windows, whenever the same are required under the provisions of this Chapter or of any rule or regulation adopted pursuant thereto, except where the Owner has agreed to supply the service.

(e) **Rodent Extermination.** Every Occupant of a Dwelling containing a single Dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises and every Occupant of a Dwelling unit in a Dwelling containing more than one Dwelling unit shall be responsible for the extermination whenever his Dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the Owner to maintain a Dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the Owner. Whenever infestation exists in two or more of the Dwelling units in any Dwelling, or in the common or public parts of any Dwelling containing two or more Dwelling units, extermination thereof shall be the responsibility of the Owner.

(f) **Plumbing Fixtures.** Every Occupant of a Dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(g) **Smoke Detectors.** The Owner of the property shall be responsible for installation of and maintenance of a functional smoke detector, excepting only that the battery replacement for the unit shall be the responsibility of the tenant unless otherwise agreed to between the parties.

1153.06 VACATING UNFIT DWELLINGS OR PREMISES.

Any Dwelling or premises condemned as unfit for human habitation or use, and so designated and placarded by the Housing Code Compliance Officer, shall be vacated within a reasonable time as ordered by the Housing Code Compliance Officer.

1153.07 PUBLIC NUISANCE.

Any Dwelling or premises condemned as unfit for human habitation or use, within the terms of this Chapter, is declared to be a public nuisance, and shall be repaired, vacated, or demolished as provided in this Chapter.

1153.08 CONDEMNATION PLACARD.

The Housing Code Compliance Officer shall place a notice on all condemned Dwellings or premises in accordance with the provisions of Chapter 1151 of these codified ordinances.

1153.09 REOCCUPATION.

Any Dwelling or premises which has been condemned and placarded as unfit for human habitation or use shall not again be so used until written approval is secured from, and the placard removed by, the Housing Code Compliance Officer. The Housing Code Compliance Officer shall remove the placard and give the written approval whenever the defect from which the condemnation and placarding action resulted has been eliminated.

1153.10 ENTERING A CONDEMNED DWELLING.

(a) No person shall enter any Dwelling that has been condemned as unfit for human habitation or use, and so designated and placarded by the Housing Code Compliance Officer, and that has been vacated, except between the hours of 7:00 a.m. and 7:00 p.m. for the specific purpose of repairing the Dwelling, or such other lawful purpose or hours as authorized in writing by the Housing Code Compliance Officer.

(b) Enforcement of this section shall not require a notice and order to comply as a prerequisite.

1153.11 VACANT DWELLING.

No person shall occupy, or let to another for occupancy, any vacant Dwelling unless the same is clean, sanitary, and fit for human occupancy.

1153.12 REMOVAL OF PLACARD.

No person shall deface or remove the placard provided for in Section 1153.8 of this Chapter from any building or premises.

1153.13 INCORPORATION AND APPLICATION OF OTHER CODES

There is hereby incorporated as part of the requirements of this Chapter, for the purpose of providing guidance and standards in the application, enforcement and penalties imposed under this Chapter, the provisions of the International Property Maintenance Code, 2018 Edition as adopted under Section 1151 of these Codified Ordinances as may be amended from time to time, the Fire Prevention Code, as may be amended from time to time, the Building Code, or as may be amended from time to time, the Ohio Building Code as may be amended from time to time and the Zoning Code, as may be amended from time to time.

1153.14 CONFLICT AND INVALIDITY.

In any case where a provision of this Chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City existing on the effective date of this Chapter, the provision which establishes the higher standard for the promotion of the health and safety of the people shall prevail. In any case, where a provision of this Chapter is found to be in conflict with a provision of any other ordinance or code of the City existing on the effective date of this Chapter, which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Chapter shall supersede the other ordinance or code or part thereof with such ordinance, code or section thereof being repealed to the extent that it may be found in conflict with this Chapter.

1153.15 WARRANTIES AND LIABILITY.

The provisions of this Chapter shall not be construed to warrant, insure or guarantee that there are no violations of the Health, Safety and Sanitation Code, Nuisance Code, Housing Code, or Zoning Code at a premises, or that the premises is in a clean, sanitary, safe or fit condition. Inspections of the Department of Planning and Development are made on behalf of the City and the Department of Planning Development for the purpose of preserving and improving the housing stock and enforcing the Health, Safety and Sanitation Code, Nuisance Code, Housing Code, and Zoning Code. Inspections of the Department of Planning and Development are not made on behalf of the Occupant, Operator, Owner, lessee of a Premises, or any other person.

1153.99 PENALTY/APPEAL

(a) Administrative Penalties. Any person, Occupant, Operator, Owner who violates or fails to comply with any of the provisions of this Chapter or any other ordinance, code or chapter incorporated herein, shall, as an alternative to any other penalty, be subject to the following administrative penalties:

- (1) For a first offense, an administrative fine of up to \$100.00.
- (2) For a second offense, an administrative fine of up to \$500.00.
- (3) For a third offense, an administrative fine of up to \$1000.00.

(b) If a person, neglects or refuses to pay an administrative penalty within the time ordered in any notice served in accordance with this Chapter 1153, then such amount shall be certified to the County auditor by the Law Director for collection in the same manner as taxes and assessments are collected, pursuant to section 715.261(B)(l) and (C) of the Ohio

Revised Code, the cost of which shall be payable as extraordinary compensation. In addition to the administrative penalty, an interest rate equal to the then current legal rate of interest shall be imposed for the life of the administrative penalty, added to the administrative penalty, and collected as provided in this section.

(c) Any person aggrieved by a determination of the Housing Code Official or in the imposition of a penalty pursuant to this Section may appeal to the Housing Renewal Commission in accordance with the provision of Chapter 1173 of these Codified Ordinances.