

CHAPTER 156: PROPERTY MAINTENANCE CODE

Section

- 156.01 Findings of Council
- 156.02 Purpose and scope
- 156.03 Intent
- 156.04 Referenced standards
- 156.05 Existing remedies
- 156.06 Definitions
- 156.07 Workmanship
- 156.08 Application of other codes
- 156.09 General requirements
- 156.10 Exterior property areas
- 156.11 Exterior structure
- 156.12 Rubbish and garbage
- 156.13 Extermination
- 156.14 Interior structures
- 156.15 Plumbing
- 156.16 Storm drainage
- 156.17 General mechanical and electrical requirements
- 156.18 Electrical facilities
- 156.19 Electrical equipment
- 156.20 Elevators, escalators and dumbwaiters
- 156.21 General fire safety requirements
- 156.22 Removal of graffiti
- 156.23 Maintenance
- 156.24 Approved material and equipment
- 156.25 Modifications
- 156.26 Materials and equipment; reuse
- 156.27 Access by owner or operator
- 156.28 Enforcement and orders; Code Official
- 156.29 Relief from personal responsibility
- 156.30 Notices and orders
- 156.31 Unsafe structures and equipment
- 156.32 Emergency powers
- 156.33 Demolitions
- 156.34 General penalty; continuing violations
- 156.35 Appeal of notice or order; Board of Zoning Appeals

§ 156.01 FINDINGS OF COUNCIL.

There exist in the town, structures which are now or which may in the future become substandard with respect to structure, equipment, maintenance or energy efficiency. That such conditions, together with inadequate provision for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions or overcrowding, constitute a menace to public health, safety and welfare of its citizens. It is further found and declared that the existence of such conditions, factors or characteristics adversely affects public health and safety and leans to the continuation, extension and aggravation of urban blight. It is also found that the establishment and enforcement of minimum property standards is necessary for the adequate protection of the public health, safety and welfare.

(Ord. 2002-15, passed 10-14-02)

§ 156.02 PURPOSE AND SCOPE.

This chapter is to protect the public health, safety and welfare in all existing structures, residential and nonresidential, and on all existing premises by establishing minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; fixing the responsibility of owners, operators, and occupants, regulating the occupancy of existing structures and premises, and providing for administration, enforcement and penalties.

(Ord. 2002-15, passed 10-14-02)

§ 156.03 INTENT.

This chapter 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 in this chapter.
(Ord. 2002-15, passed 10-14-02)

§ 156.04 REFERENCED STANDARDS.

The standards referenced in this chapter shall be considered part of the requirements of this chapter to the prescribed extent of each such reference.
(Ord. 2002-15, passed 10-14-02)

§ 156.05 EXISTING REMEDIES.

The provisions in this chapter are in addition to, and shall not be construed to abolish or impair, existing ordinances, laws, regulations, requirements and remedies provided by the code or any other law relating to any building, structure or premises or the removal or demolition of any structure which is dangerous, unsafe and unsanitary.
(Ord. 2002-15, passed 10-14-02)

§ 156.06 DEFINITIONS.

(A) *Scope.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

APPROVED. Approved by the Code Official.

BASEMENT. Portion of a building which is partly or completely below grade.

BATHROOM. Room containing plumbing fixtures including a bathtub or shower.

BUILDING. Any structure occupied or intended for supporting or sheltering any occupancy.

BUILDING CODE. The building code officially adopted by the Town Council and other such codes officially designated by the Town Council for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy and maintenance of buildings and structures.

CODE OFFICIAL. Director of Community Development, and his or her inspectors or designees, as the official charged with the administration and enforcement of the Property Maintenance Code.

CONDEMN. Adjudge a unit unfit or unsafe for occupancy.

CONSTRUCTION DOCUMENTS. Any written, graphic or pictorial document prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a building permit drawn to an appropriate scale established or approved by the Town Engineer.

DWELLING. Shall have its usual meaning and shall include the following:

(1) **DORMITORY.** A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group.

(2) **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.

(3) **HOTEL.** Any hotel, motel or similar building containing six or more guestrooms intended or designed to be occupied, or which are rented or hired out to be occupied, for sleeping purposes by guests or invitees.

(4) **SINGLE-FAMILY DWELLING.** A building containing one dwelling unit with not more than five lodgers or boarders.

2006 S-15

(5) **ROOMINGHOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one-family dwelling or a two-family dwelling.

(6) **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.

(7) **TWO-FAMILY DWELLING.** A building containing two dwelling units with not more than five lodgers or boarders per family.

EXTERIOR PROPERTY. All open space on the premises and on adjoining property under the control of the owner or operator of such premises.

EXTERMINATION. The control and elimination of insects, rats, other pests and vermin by eliminating their harborage places, by removing or making inaccessible materials that serve as their food source, by poisoning, fumigating, trapping or by any other approved method of elimination.

FAMILY. An individual or married couple and the children thereof with other persons related directly to the individual or married couple by blood or marriage or a group of not more than four unrelated persons, living together as a single housekeeping unit in a dwelling unit.

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

INFESTATION. The presence, within, upon or contiguous to any structure or premises, of insects, vermin or other similar pests that results in or poses any danger to the public health, safety or welfare or that threatens to harm or degrade any structure or premises.

INSPECTION CERTIFICATE. An identification applied on a product by an approved agency containing the name of the manufacturer, the function and performance characteristics, and the name and identification of an approved agency which

indicates that the product or material has been inspected and evaluated by an approved agency.

LABEL. An identification applied on a product by the manufacturer which contains the name of the manufacturer, the function and performance characteristics of the product or material, and the name and identification of an approved agency and which indicates that the representative sample of the product or material has been tested and evaluated by an approved agency.

LET FOR OCCUPANCY and 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, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale or occupancy of land.

MANUFACTURER'S DESIGNATION. An identification applied on a product by the manufacturer indicating that a product or material complies with a specified standard or set of rules. (See **MARK, LABEL, and INSPECTION CERTIFICATE**)

MARK. An identification applied on a product by the manufacturer indicating the name of the manufacturer and the function of a product or material. (See **MANUFACTURER'S DESIGNATION, LABEL, and INSPECTION CERTIFICATE**)

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

OCCUPANT. Any person living or sleeping in a building or having possession of a space within a building.

OPERATOR. The owner or 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, corporation or entity having a legal or equitable interest in the property or premises; or recorded in the official records of the state, county or municipality as holding title to the property or premises; or otherwise having control of the property or premises, including the guardian of the estate of any such person, and the personal representative of the estate of such person or any person taking or in possession of real property by operation of law.

PLUMBING. The practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances within the scope of the Plumbing Code.

PLUMBING FIXTURE. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises that demands a supply of water from the water distribution system and discharges from wastewater, liquid-borne waste materials, or sewage either directly or indirectly to the drainage systems of the premises or which requires both a water supply connection and a discharge to the drainage system of the premises.

PREMISES. A lot, plot or parcel of land including any structure thereon.

PUBLIC NUISANCE. Means and includes any of the following:

(1) In addition to what is declared in this chapter to be a **PUBLIC NUISANCE**, those offenses which are known to the common law and the statutes of Indiana a **PUBLIC NUISANCE** may, when found to exist within the town limits, be treated as such and be proceeded against as provided in this chapter, or in accordance with any other provisions of law. Wherever the word "nuisance" is used in this chapter it refers to a **PUBLIC NUISANCE**.

(2) No owner, occupant, tenant, or any other person having a substantial interest in any real or personal property, or any agent thereof,

shall permit, cause or allow to remain on or within such property or

2002 S-7

upon public ways abutting such real property any materials, trash, garbage, debris or any other matter which is or may be detrimental to public health, comfort, safety or aesthetic well being of the community.

(3) The following conditions shall also be considered to constitute a **PUBLIC NUISANCE** for the purpose of this chapter:

- (a) Litter;
- (b) Fallen trees, tree stumps, dead trees, cut brush, fallen or cut limbs;
- (c) Discarded or abandoned boxes, appliances, and household items;
- (d) Demolition remains;
- (e) Open excavations, uncovered or improperly covered holes, whether lined or unlined, and dirt or debris accumulations on any open or unfenced real property within the town;
- (f) Any accumulation of garbage, trash or any similar debris, materials or scrap items that constitute or threaten the public health or safety;
- (g) Any automobile parts; disassembled, inoperable or unlicensed automobiles; automobiles without engines or tires; plumbing and piping material and parts; scrap metal or materials; unseaworthy or dilapidated boats; dilapidated or deteriorated or inoperable jet skis, snowmobiles, vehicles, motorcycles, bicycles, trailers, mopeds, playground equipment or toys which are not kept completely enclosed in a building or structure in a residential district;

(h) Any structures or part thereof defaced with paint, graffiti, wording, symbols or any gang related designation or symbol;

(j) Any portion of real property or any personal property which emits any

unwholesome, noxious, irritating or unsafe smell, odor or fume;

(k) Any wastewater, filth, offal, garbage, rubbish, animal waste, human excrement, which is deposited, allowed or caused to be remain upon any public or private property;

(l) Any accumulation or discharge of water or any other substance which is caused or permitted to flow onto or be deposited upon any public property or public way, except in accordance with an approved drainage plan;

(m) Any dead animal or animal parts left exposed to public view or other property owners;

(n) The erection of a dam or any other obstruction by a private party which prevents the natural flow of water or stormwater and causes it to collect or pool upon any private or public property;

(o) Any real or personal property which is infected with contagious disease which is likely to cause or contribute to an immediate health hazard to the occupants or the general public;

(p) The placing or accumulating on or within any real or personal property, or the permitting of same, of any matter which attracts or may attract rodents, insects, vermin, domestic or wild animals in such a manner as to create or pose a health hazard, unsanitary or dangerous condition;

(q) Any real or personal property, used as a place of residence, habitation or for sleeping, that is maintained in such a way as to be dangerous or detrimental to life or health due to lack of, or defects in, any water, drainage, heating, electrical, plumbing or ventilation system or due to the lack of sanitary garbage and trash containment or removal;

(r) The storage of any explosive, combustible or other material which creates a safety or health hazard;

(s) Trees, shrubbery, weeds, vegetation, snow, ice or other matter obstructing any public way or that causes any visual barrier,

obstruction or threat of harm to any motorist, bicyclist, vehicular or pedestrian traffic, or that may create or expose any person to an unsafe or hazardous condition;

(t) In residential districts, trash or garbage containers which are left on the sidewalk, the area between the street and sidewalk, in the front or side yard or on an unenclosed front porch or steps, except as permitted for trash and garbage collection purposes;

(u) Building materials stored in a residential district beyond the term of the building permit for which the materials were purchased or for which no permit has been issued;

(v) Any furniture, equipment, or appliance, not originally designed or manufactured for outdoor use; or any furniture, equipment, or appliance which was originally designed or manufactured for outdoor use which is in a dilapidated or deteriorated condition;

(w) Any use of any radio equipment in a manner not authorized by the Federal Communications Commission; any unauthorized operation of radio equipment on a frequency between 24 MHZ and 35 MHZ; and

(x) Any premises or part thereof that is in violation of this chapter or any ordinance or any state or federal law.

The maximum permissible duration for nuisances listed under items (b), (c), (d), (u), and (v) shall be 30 days.

RUBBISH. Any combustible or noncombustible waste materials, except garbage, and 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 material, glass, crockery and dust, recyclable material or items not placed for collection in an approved container and any other discarded or waste materials or goods.

2002 S-7

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

mechanical codes, laws, rules or other regulations and shall conform to the town's zoning ordinance.
(Ord. 2002-15, passed 10-14-02)

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

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

YARD. The open space on the same lot or premises outside any structure.

(B) *Terms defined in other codes.* Where terms are not defined in this chapter and are defined in the building, plumbing, electrical, mechanical or other codes, such terms shall have the meanings ascribed to them in any other codes adopted by the town or the state and any amendments that are made thereto.

(C) *Parts.* Whenever the terms "dwelling unit", "dwelling", "premises", "building", "roominghouse", "rooming unit", "structure" or "story" are stated in this chapter, they shall be construed as though they were followed by the term "or any part thereof".
(Ord. 2002-15, passed 10-14-02)

§ 156.07 WORKMANSHIP.

All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a timely, safe and workmanlike manner.

(Ord. 2002-15, passed 10-14-02)

§ 156.08 APPLICATION OF OTHER CODES.

Any repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the applicable building, plumbing, electrical or

§ 156.09 GENERAL REQUIREMENTS.

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

(B) *Responsibility.* The owner of the premises shall maintain structures and exterior property in compliance with these requirements except as otherwise provided. A person shall not occupy as owner-occupant or permit another person to occupy premises which do not comply with the requirements of this chapter.

(C) *Vacant structures and land.* All vacant structures and premises on vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided in this chapter so as not to cause a blighting problem or adversely affect the public health, safety or welfare.
(Ord. 2002-15, passed 10-14-02)

§ 156.10 EXTERIOR PROPERTY AREAS.

(A) *Sanitation.* 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 the occupant occupies or controls in a clean and sanitary condition.

(B) *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and prevent the accumulation of stagnant water on the premises, within any structure located on the premises, or to drain or flow upon any adjacent property except in approved water retention areas and reservoirs.

(C) *Sidewalks and driveways.* All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, maintained free from hazardous conditions and stairs shall comply with the requirements of the Building Code.

(D) *Weeds.* See § 96.01 et seq.

(E) *Vermin harborage.* All structures and exterior property shall be kept free from vermin infestation. Where vermin are found, they shall be promptly exterminated by approved processes not injurious to human health, and after extermination proper precautions shall be taken to prevent reinfestation.

(F) *Exhaust vents.* Pipes, ducts, conductors, fans or blowers shall not discharge any gas, steam, vapor, heated air, grease, smoke, odor or other gaseous or particulate waste directly upon abutting or adjacent public or private property or that of any tenant.

(G) *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
(Ord. 2002-15, passed 10-14-02)

§ 156.11 EXTERIOR STRUCTURE.

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

(B) *Exterior painting.* All wood and metal surfaces shall be protected from the elements and against decay, rust or deterioration by periodic application of appropriate weather-coating materials such as paint or similar surface treatments.

(C) *Street numbers.* Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way. All numbers shall be in Arabic numerals at least three inches (76 mm) high and one-half-inch (13 mm) stroke.

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

2002 S-7

(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 rats, similar vermin, or contribute to any infestation.

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

(G) *Roofs and drainage.* Roofing materials and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof and downspout water shall not be discharged in a manner that creates a public nuisance or directed onto any adjacent property.

(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 canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts or similar overhang extensions 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 appropriate surface treatments.

(J) *Stairs and walking surfaces.* Every stair, ramp, balcony, porch, deck or other walking surface shall comply with the provisions of this section.

(K) *Stairways, decks porches and balconies.* Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be

maintained structurally sound and in good repair, with proper anchorage capable of supporting the imposed loads.

(L) *Chimneys and towers.* All chimneys, cooling towers, smokestacks, 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 appropriate surface treatments.

(M) *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in a good and workmanlike condition.

(N) *Window and door frames.* Every window, door, and frame therefore, shall be kept in good condition, good repair and weathertight, and:

(1) *Glazing.* All glazing materials shall be capable of being held in position by window hardware.

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

(3) *Insect screens.* During the period from April 1 to November 1 every door, window and other outside opening utilized or required for ventilation purpose serving any structure containing 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 and every swinging door shall have a self-closing device in good working condition.

(4) *Exception.* Screen doors shall not be required where other approved means,

such as air curtains or insect-repellant fans are employed.

(O) *Doors.* All exterior doors and hardware shall be maintained in good condition. Locks on entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.

2002 S-7

(P) *Basement hatchways.* Every basement hatchway shall be maintained to prevent the entrance of rats, other similar vermin, rain and surface drainage water.

(Q) *Guards for basement windows.* Every basement window that is openable shall be supplied with a vermin-proof shield, storm window or other protection appropriate to prevent the entry of vermin.

(Ord. 2002-15, passed 10-14-02)

§ 156.12 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 or other similar debris or materials.

(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. The owner of every occupied premises shall supply approved covered containers to contain rubbish, and the owner of the premises shall be responsible for the removal of all rubbish or other similar waste products and debris.

(C) *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 container.

(1) Garbage facilities. The owner of every dwelling shall supply an approved leak-proof, covered, outside garbage container.

(2) Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers

for the storage of such materials until removed from the premises for disposal.

Property Maintenance Code

259

(D) *Additional regulation.* These provisions shall be construed as additional regulation of dumpsters or other garbage containers which are subject to regulation by any other provisions of this chapter or any other law.

(Ord. 2002-15, passed 10-14-02)

§ 156.13 EXTERMINATION.

(A) *Infestation.* All structures shall be kept free from insect and vermin infestation. All structures in which insects or vermin are found shall be promptly exterminated by approved processes that will not be injurious to human health and 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 in the area occupied, the occupants shall be responsible for extermination.

(E) The occupant of any structure shall be responsible for the continued rat free condition of the structure, and if the occupant fails to maintain the vermin free condition, the cost of extermination shall be responsibility of the occupant, however, where rat or vermin infestation is caused by defects in a structure, the owner shall be responsible for extermination.

(Ord. 2002-15, passed 10-14-02)

2002 S-7

§ 156.14 INTERIOR STRUCTURES.

The owner of any premises shall comply with the following minimal requirements for the interior of any structure:

(A) *Basements.* Every basement and crawl space shall be maintained reasonably free from dampness and free of any mold or mildew. Every basement area accessible to tenants shall have its floor paved with concrete or other durable, dustless, surfacing to permit the floor to be kept in a clean and sanitary condition.

(B) *Structural members.* Supporting structure members shall be maintained structurally sound, show no evidence of deterioration, and capable of bearing imposed loads in accordance with the provisions of the Building Code or maintained in accordance with the Building Codes in effect when originally constructed and when rehabilitated.

(C) *Stains.*

(1) Every stairwell shall be constructed safely and be capable of supporting a load as determined in the Building Code, or must be maintained in accordance with the Building Code which was in effect when the stairs were originally constructed. All stairs shall be kept in sound condition and good repair. Every stairway, porch, deck or step which is more than 30 inches above grade shall have guardrails and intermediate rails no more than nine inches apart and in accordance with the Building Code or maintained in accordance with the Building Code in effect when originally constructed.

(2) Every flight of stairs which is more

260

Lowell - Land Usage

(D) *Bathroom floors.* Every toilet room and bathroom floor surface shall be constructed and maintained substantially impervious to water to permit such floor to be kept in a clean and sanitary condition.

(E) *Sanitation.* The interior shall be maintained in a clean and sanitary condition and free from any accumulation of refuse or garbage.

(F) *Intend rodent harborage.* Every owner of a structure shall be responsible for the control and/or elimination of insects, rodents or other pests wherever infestation exists.

(G) *Interior walls, floors, ceilings, woodwork and cabinets.* All interior walls, floors, ceiling, woodwork and cabinets must be maintained in a sound condition and in a workmanlike state of maintenance and repair.

(H) *Use of paint containing lead.*

(1) No person shall apply paint or other surface-covering material containing lead equal to or greater than 0.06% by weight of the total solids contained in such paint or surface-covering material to the interior or exterior surface of any residential structure or which is not in compliance with any state or federal law.

(2) No interior surface of any residential

than three risers high shall have handrails in accordance with the Building Code. Stairs, steps, handrails, balustrades and guardrails deemed hazardous by the Enforcement Officer shall be corrected in accordance with the Building Code or maintained in accordance with the Building Code in effect when originally constructed.

structure or accessory thereto shall have exposed accumulated paint or surface-covering material containing lead equal to or greater than 0.5% by weight, or in excess of one milligram per square centimeter of surface area if such paint or surface-covering material is blistered, cracked, flaked, scaled or chalked away.

(Ord. 2002-15, passed 10-14-02)

§ 156.15 PLUMBING.

The following provisions of this section shall govern the minimum plumbing facilities and plumbing fixtures to be provided. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with the following

2002 S-7

requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this section.

(A) *Required facilities.*

(1) Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The

lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located.

(2) Roominghouses. At least one water closet, lavatory and bathtub or shower shall be supplied for every four rooming units.

(3) Hotels. Where private water closets, lavatories, and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

(B) *Employee facilities.* A minimum of one water closet, one lavatory and one drinking facility shall be available for use by employees on every business premises.

(C) *Drinking facilities.* Non-residential premises shall have a drinking fountain, water cooler,

bottled water cooler, or disposable cups next to a sink or water dispenser and said drinking facility shall not be located in toilet rooms or bathrooms.

(D) *Toilet rooms.*

(1) Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior.

(2) Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

Property Maintenance Code

261

(3) Location of employee toilet facilities. Toilet facilities shall have access from within the employees' regular working area. The required toilet facilities shall be located not more than one story above or below the employee's regular working area and the path to travel to such facilities shall not exceed a distance of 500 feet. Employee facilities shall either be separate facilities or public customer facilities. **Exception:** Facilities that are required for employees in storage structures or kiosks, and which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet from the employees' regular working area to the facilities.

(E) *Plumbing fixtures.*

(1) Generally. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(2) Fixture clearances.

Plumbing fixtures shall have adequate clearances for usage and cleaning.

(F) *Water system.*

(1) Generally. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to the town's public water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water.

(2) Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the food level rim or the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

(3) Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressure adequate to enable the fixtures to function properly, safely, and free from defects and leaks with appropriate devices in a manner approved by the water utility to prevent any cross-connection to or contamination of the public water supply.

(4) Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110 degrees Fahrenheit (43 degrees Celsius). A gas burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on each water heater.

(G) *Sanitary drainage system.*

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

(2) Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks, and defects. (Ord. 2002-15, passed 10-14-02)

§ 156.16 STORM DRAINAGE.

Drainage roofs and paved areas, yards, downspouts, sump pumps, courts and other open areas on the premises shall not permit storm water or ground water to be discharged into the sanitary sewer system or in any manner that creates any public nuisance or directed onto any adjacent property or premises. (Ord. 2002-15, passed 10-14-02)

§ 156.17 GENERAL MECHANICAL AND ELECTRICAL REQUIREMENTS.

The following provisions shall govern the minimum mechanical and electrical facilities and equipment to be provided. The owner of a structure shall provide and maintain mechanical and electrical facilities and equipment in a 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 chapter.

(A) *Heating facilities.*

(1) Facilities required. Heating facilities shall be provided in structures as required by this section.

(2) Residential buildings. Every dwelling shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees Fahrenheit (18 degrees Celsius) in all habitable rooms, bathrooms and toilet rooms based on the outside design temperature required for the locality by the Mechanical Code.

(3) Heat supply. Every owner of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either express or implied, shall furnish heat to occupants thereof during the period from October 1 to May 1 capable of maintaining a room temperatures during the hours between 6:30 a.m. and 10:30 p.m. of each day of not less than 60 degrees Fahrenheit (16 degrees Celsius).

(4) Room temperature exception. When the outdoor temperature is below

the outdoor design temperature required for the locality by the state Building Code, the owner or operator shall not be required to maintain the minimum room temperatures, provided that the heating system is operating at full capacity, with supply valves and dampers in a full open position.

2002 S-7

(5) Nonresidential structures. Every enclosed occupied work space shall be supplied with sufficient heat during the period from October 1 to May 1 to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) during all work hours, except:

(a) Processing, storage and operation areas that require cooling or special temperature conditions; and

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

(6) Room temperature measurement. The required room temperature shall be measured at a point three feet above the floor and three feet from the exterior walls.

(B) *Mechanical equipment.*

(1) Mechanical equipment. All mechanical equipment, fireplaces and solid fuel-burning appliances shall be properly installed, maintained in a safe working condition and shall be capable of performing the intended function.

(2) Equipment access. Access to outdoor mechanical equipment shall be maintained under all weather conditions.

(3) Cooking and heating equipment. All cooking and heating equipment, components and accessories in every heating, cooking and water-heating device shall be maintained free from leaks and obstructions.

(4) Flue. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent except fuel burning equipment and appliances which are designed, manufactured and labeled for unvented operation.

(5) Clearances. All required clearances to combustible materials shall be maintained.

Property Maintenance Code

263

(6) Safety controls. A supply of air for complete combustion of fuel the and for ventilation of the space shall be provided for all fuel burning equipment.

(7) Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided for all fuel burning equipment.

(8) Energy conservation devices. Devices purporting to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose

and the installation is specifically approved. (Ord. 2002-15, passed 10-14-02)

§ 156.18 ELECTRICAL FACILITIES.

(A) *Facilities.* Every occupied building shall be provided with an electrical system in compliance with the requirements of this section.

(B) *Service.* The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70 225-39©). Every dwelling

shall be served by a main service that is not less than 100 amperes; three wires.

(C) *Electrical system hazards.* Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.

(Ord. 2002-15, passed 10-14-02)

2002 S-7

§ 156.19 ELECTRICAL EQUIPMENT.

(A) *Installation.* All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner pursuant to the Electrical Code.

(B) *Receptacles.* Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every kitchen, laundry area and bathroom shall contain only ground-fault receptacles.

(C) *Lighting fixtures.* Every public hall, interior stairway, water closet compartment, bathroom, laundry room and furnace room shall contain at least one electric lighting fixture sufficient to safely illuminate the area.

264

Lowell - Land Usage

§ 156.21 GENERAL FIRE SAFETY REQUIREMENTS.

(A) *Scope.* The following provisions 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

(Ord. 2002-15, passed 10-14-02)

§ 156.20 ELEVATORS, ESCALATORS AND DUMBWAITERS.

(A) *Generally.* Elevators, escalators, and dumbwaiters shall be maintained to sustain safely all imposed loads to operate properly, and to be free from physical and fire hazards.

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

(C) *Exception.* Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing and services.

(Ord. 2002-15, passed 10-14-02)

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 chapter.

(C) *Means of egress.*

(1) Generally. A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to a public way.

(2) Exit capacity. The capacity of the exits serving a floor shall be sufficient for the occupant load thereof as determined by the Building Code.

(3) Number of exits. In nonresidential buildings, every occupied story more than six stories above grade (with not less than two stories above grade) shall be provided with not less than two independent exits. In stories where more than one exit is required, all occupants shall have access to at least two exits. Every occupied story which is both totally below grade and greater than 2,000 square feet shall be provided with not less than two independent exits. However, a single exit is acceptable under any one of the following conditions:

(a) Where the building is equipped throughout with an automatic sprinkler system and an automatic fire detection system with smoke detectors located in all corridors, lobbies and common areas.

(b) Where the building is equipped throughout with an automatic fire detection system and the exit is an approved smokeproof enclosure or pressurized stairway.

2002 S-7

(c) Where an existing fire escape conforming to the Building Code is provided in addition to the single unit.

(d) Where permitted by the Building Code.

(4) Arrangement. Exits from dwelling units, rooming units, guestrooms and

dormitory units shall not lead through other such units or through toilet rooms or bathrooms.

(5) Exit signs. All means of egress shall be indicated with approved exit signs where required by the Building Code. All exit signs shall be maintained visible and all illuminated at all times that the building is occupied.

(6) Corridor enclosure. All corridors serving an occupant load greater than 30 and the openings therein shall provide an effective barrier to resist the movement of smoke. All transoms, louvers, doors and other openings shall be closed or shall be self-closing, except the following:

(a) Corridors in occupancies in other than Use Group H which are equipped throughout with an automatic sprinkler system.

(b) Patient room doors in corridors in occupancies in Use Group 1-2 where smoke barriers are provided in accordance with the Fire Protection Code are not required to be self-closing.

(c) Corridors in occupancies in Use Group E where each room that is occupied for instruction or assembly purposes has at least one-half of the required means of egress doors opening directly to the exterior of the building at ground level.

(d) Corridors that are in compliance with the Building Code.

Property Maintenance Code

265

(7) Dead-end travel distance. All corridors that serve more than one exit shall provide direct connection to such exits. The length of a dead-

end corridor shall not exceed 20 feet where the building is not equipped throughout with an automatic sprinkler system.

(8) Aisles. Arrangements of chairs or tables and chairs shall provide for ready access by aisle access-ways and aisles to each egress door. The minimum clear width of each aisle in occupancies in Use Group A, E and 1-2 shall be maintained in accordance with the requirements of the Building Code. In all other occupancies, aisles shall have a minimum required clear width of 44 inches where serving an occupant load greater than 50, and 36 inches where serving an occupant load of 50 or less, and the clear width of aisles shall not be obstructed by chairs, tables, or other objects.

(9) Stairways, handrails, and guard. Every exterior and interior flight of stairs having more than four risers, and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches above the floor or grade below shall have guards. Hand rails shall not be less than 30 inches nor more than 42 inches high, measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 36 inches high above the floor of the landing, balcony, porch, deck, ramp or other walking surface and an information sign, shall be provided at each floor landing in all interior stairways more than three stories above grade, designating the floor level above the floor of discharge.

(10) Elevator stations. All elevator lobby call stations on all floor levels shall be identified by approved signs in accordance with the requirements for new buildings in the Building Code.

(11) Emergency escape. Every sleeping room located in a basement in an occupancy in Use Group 1-1 or R shall have at least one openable window or exterior door approved for emergency egress or rescue; or shall have access to not less than two approved independent exits.

2002 S-7

(12) Security. Bars, grilles or screens placed over emergency escape windows 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 window.

(D) *Accumulations and storage.*

(1) Accumulations. Rubbish, garbage, or other materials shall not be stored or allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

(2) Hazardous material. Combustible, flammable, explosive or other hazardous materials such as paints, volatile oils and cleaning fluids, or combustible rubbish, such as waste paper, boxes and rags, shall not be accumulated or stored unless such storage complies with the applicable requirements of the Building Code and the Fire Prevention Code.

(E) *Fire resistance ratings.*

(1) Generally. The fire resistance rating of floors, walls, ceilings, and other elements and components shall be maintained.

(2) Maintenance. All required fire doors and smoke barriers shall be maintained in good working order, including all hardware necessary for the proper operation of fire doors and smoke barriers.

(3) Fire Doors. Fire doors shall not be held open by doorstops, wedges and other unapproved hold-open devices.

(F) *Fire protection systems.*

(1) Generally. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be properly maintained.

(2) Fire suppression system. Fire suppression systems shall be in proper operating condition at all times.

(a) Valves. Control valves shall be in the fully open position.

(b) Sprinklers. Sprinklers shall be clean and free from corrosion, paint and damage. Stock shall be at least 18 inches below sprinkler deflectors.

(c) Piping. Piping shall be properly supported and shall not support any other leads.

(3) Standpipe systems. Standpipe systems shall be in proper operating condition at all times.

(a) Valves. Water supply control valves shall be in the fully open position.

(b) Hose connection. Hose connections shall be identified and have ready access.

(c) Hose. Where provided, the hose shall be properly packed, dry and free from deterioration.

(4) Fire extinguishers. All portable fire extinguishers shall be visible, provided with ready access thereto, and maintained in an efficient and safe operating condition. All extinguishers shall be of an approved type as per NFPA 10.

(5) Smoke detectors. A minimum of one approved single-station or multiple-station smoke detector shall be installed in each guestroom, suite or sleeping area in occupancies in Use Groups R-1 and 1-1, and in dwelling units in the immediate vicinity of the bedrooms in occupancies in Use Group R-2 and R-3. In all residential occupancies, smoke detectors shall be required on every story of the dwelling unit, including basements. In dwelling units with split-levels and without an intervening door between the adjacent levels, a smoke detector installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than full story below the upper level.

2002 S-7

(a) Installation. All detectors shall be installed in accordance with the Building Code. When actuated, the smoke detectors shall provide an alarm suitable to warn the occupants within the individual room or dwelling unit.

(b) Power source. The power source for smoke detectors shall be either an AC primary power source or a monitored battery primary power source.

(c) Tampering. Anyone tampering or interfering with the effectiveness of a smoke detector in any manner shall be in violation of this section.

(6) Fire alarm systems. Fire alarm systems shall be in proper operating condition at all times.

(a) Control panel. The power on indicator shall be lit. Alarm off or trouble indicators shall not be illuminated.

(b) Manual fire alarm boxes. All manual fire alarm boxes shall be operational and unobstructed.

(c) Automatic fire detectors. All automatic fire detectors shall be operational and free from any obstructions that prevent proper operation, including smoke entry.

(7) Records. A complete written record of all tests and inspection of fire protection systems shall be maintained on the premises by the owner or occupant in charge of such premises.

(G) *Elevator recall*. All elevators having a travel distance of 25 feet or more above or below the primary level of elevator access of emergency firefighting or rescue personnel shall conform to the requirements of Rule 211.3 of ASME A17.1.

(H) *Mechanical equipment control.* Approved smoke or heat detector shall be installed in return air ducts or plenums in each recirculating system with a capacity of more than 2,000 cfm (0.94 m³/sec) and serving more than one floor in buildings that exceed six stories in height in accordance with the mechanical code. Actuation of the detector shall stop the fans automatically and shall be of the manual-reset type. Automatic fan shutdown is not required where the system is part of an approved smoke control system.

(Ord. 2002-15, passed 10-14-02)

§ 156.22 REMOVAL OF GRAFFITI.

(A) *Definition.* The term "graffiti", for purposes of this section, shall mean the inscription or representation, on a building, structure, wall, sign, fence, sidewalk, pavement, post, stone, tree or other object or structure, of any symbol, diagram, letter, word, numeral, emblem, picture, character or combination thereof by carving, application of paint or other substance or other means without the consent of the owner or person in charge of such object or structure and other than as permitted by ordinance.

(B) *Removal required.* It shall be the duty of the owner or occupant of the building, structure or wall upon which any graffiti has been placed by another person to remove, cover or eradicate the graffiti within five days from its placement on the property. If the owner or occupant has failed to remove the graffiti within that period, the owner or occupant shall be notified via certified mail or personal notice that he or she has five days to remove the graffiti. For good cause shown, the owner or occupant may be given additional time to meet the removal requirements without being charged with a violation of this section.

(C) *Penalty.* The failure of the owner or occupant of property to remove, cover or eradicate graffiti as required by this section shall be a violation.

2002 S-7

(D) *Removal by town authorized.* In addition to any fine which may be imposed, if the owner or occupant fails to remove, cover or otherwise eradicate the graffiti by the date stated in the notice, or such later date as the owner or occupant may be allowed, the town or its authorized agent may enter upon the property and remove such graffiti, and the cost of removal shall be collected from the owner or occupant of the property.

(E) *Lien for costs of removal by town.* The cost of removal shall be a lien upon the real estate affected. Within 60 days after such cost and expense has been incurred, the town shall file a notice of lien in the Office of the County Recorder. The notice shall consist of a sworn statement setting out a description of the real estate sufficient for identification thereof, the amount of money representing the cost and expense incurred or payable for the service, and the date when such cost and expense was incurred by the town. Upon payment of the cost and expense by the owner or person interested in such property after notice of lien has been filed, the lien shall be released by the town, and the release may be filed of record at the owner's or occupant's expense.

(F) *Recovery of costs.* The town's exercise of the remedies provided in this section shall not prevent the owner or occupant from recovering, through civil suit or otherwise, the cost of removal or other reparation from the person responsible for placing the graffiti on his or her property.
(Ord. 2002-15, passed 10-14-02)

§ 156.23 MAINTENANCE.

All equipment, systems, devices and safeguards required by this chapter, or any previous statute or code for the structure or premises when erected or altered, shall be maintained in good working order. The requirements of this chapter are not intended to provide the basis for the removal or abrogation of any fire protection or safety systems and devices in any existing structure.

(Ord. 2002-15, passed 10-14-02)

268

Lowell - Land Usage

§ 156.24 APPROVED MATERIAL AND EQUIPMENT.

All materials, equipment and devices approved by the Code Official shall be constructed and installed in accordance with the established building codes.

(Ord. 2002-15, passed 10-14-02)

§ 156.25 MODIFICATIONS.

(A) *Written request.* Where there are practical difficulties involved in carrying out provisions of this chapter, the Code Official shall have the right to vary or modify such provisions upon the written application of the owner or the owner's representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is ensured. The application for modification and the final decision of the Code Official shall be in writing and shall be officially recorded in the permanent records of the Department.

(B) *Approval.* If the Code Official approves any request for a variance or modification, then all other requirements of this chapter shall apply and the approval of any such variance or modification by the Code Official shall not be deemed a waiver of the provisions of this chapter unless the owner completes said work in the time provided by the Code Official and this chapter, failure to start or complete any work so approved by the Code Official shall be deemed a waiver by the owner and revocation by the Code Official of any such variance or modification previously granted.

(Ord. 2002-15, passed 10-14-02)

§ 156.26 MATERIALS AND EQUIPMENT;

REUSE.

(A) *Materials.* The provisions of this chapter are not intended to prevent the installation of any material or method of construction not specifically prescribed by this chapter, provided that any such alternative has been approved by the Code Official. An alternative material or method of construction shall be approved when the Code Official finds that the proposed design

2002 S-7

is satisfactory and complies with the intent of the provisions of this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

(B) *Alternative.* Sufficient technical data shall be submitted to substantiate the proposed installation of any material or assembly. If the evidence submitted is satisfactory proof of performance for the proposed installation, the Code Official shall approve such alternative subject to the requirements of this ordinance. The cost of all tests, reports, and investigations required under these provisions shall be paid by the applicant.

(C) *Reuse.* Reuse of materials, equipment and devices shall not be permitted unless such elements have been reconditioned, tested and placed in good and proper working condition and approved by the Code Official for such use.

(Ord. 2002-15, passed 10-14-02)

§ 156.27 ACCESS BY OWNER OR OPERATOR.

Every occupant of a structure or premises shall give the owner or operator of such structure or premises, or their designated agent or employee, access to any part of such structure or premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this chapter.
(Ord. 2002-15, passed 10-14-02)

OFFICIAL.

(A) *Code Official.* The Code Official, his or her deputy or designees, shall enforce all the provisions of this chapter and take all such actions necessary to enforce compliance therewith. Also, all sworn police officers of the town shall enforce or assist in the enforcement of this chapter when requested by any Code Official.

**§ 156.28 ENFORCEMENT AND ORDERS;
CODE**

Property Maintenance Code

269

(B) *Notices and orders.* The Code Official shall issue all necessary notices or orders to ensure compliance with this chapter.

(C) *Right of entry.* The Code Official is authorized to enter every structure or premises at reasonable times to conduct inspection of the structure or premises, subject to the following:

(1) Residential structure. The Code Official shall notify the owner or occupant of a residential structure of said inspection and if entry is not permitted by the owner or occupant the Code Official shall apply for and receive an inspection warrant prior to entry of the residential structure.

(2) Non-residential structure. The Code Official is authorized to enter every non-residential structure or premises at reasonable times to conduct inspections of the structure or premises.

(3) Emergency inspection. The Code Official shall have the right to enter any premises or structure upon a determination that an emergency exists that would be or is an immediate threat to the public health, safety or welfare.

(D) *Identification.* The Code Official shall carry proper photo identification when inspecting structures or premises in the performance of duties under this chapter.

(E) *Coordination of enforcement.* Inspection of premises, the issuance of notices and orders and enforcement of such notices and orders shall be the responsibility of the Code Official. Whenever

inspections are necessary by any other department, the Code Official shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency order.

2002 S-7

(F) *Rule-making authority.* The Code Official shall have power as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this chapter to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. However, such rules shall not have the effect of waiving any structural, building or fire performance requirements specifically provided for in this chapter or be in derogation of accepted engineering practices involving public safety.

(G) *Organization.* The Code Official shall appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this chapter and as authorized by the appointing authority. The Code Official is authorized to designate an employee as a deputy who shall exercise all the powers of this chapter during the temporary absence or disability of the Code Official.

(H) *Restriction of employees.* An official or employee connected with the enforcement of this chapter, except one whose only connection is being a member of the Board of Appeals established under the provisions of this chapter, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents of such building, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

(I) *Records.* An official record shall be kept of all notices, orders issued, inspections conducted,

270

Lowell - Land Usage

§ 156.29 RELIEF FROM PERSONAL RESPONSIBILITY.

(A) *Code Official.* The Code Official, and any other officer or employee charged with the enforcement of this chapter, while acting within the scope of their employment, shall not thereby be rendered personally responsible, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of their official duties.

(B) *Lawsuits.* Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the town until the final termination of the proceedings.

(C) *Indemnity.* The Code Official or any other employee acting under this chapter shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this chapter; and any officer of the Building Department or other town official, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection with this chapter.
(Ord. 2002-15, passed 10-14-02)

regulations approved and the business activities of the Code Official specified in the provisions of this chapter and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records.

(Ord. 2002-15, passed 10-14-02)

§ 156.30 NOTICES AND ORDERS.

(A) *Notice to owner or persons responsible.* Whenever the Code Official determines that there has been a violation of this chapter, or has grounds to believe that a violation has occurred or is occurring, notice shall be given to the owner or the responsible persons in the manner prescribed in divisions (B) and (C) of this section. Notices for condemnation procedures shall also comply with divisions (B) of this section.

(B) *Form of notice.* Such notice prescribed in division (A) of this section shall:

2002 S-7

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why the notice is being issued;
- (4) Include a compliance order establishing a reasonable time limit, as determined by the Code Official, to make any repairs or improvements required to bring the dwelling unit or

structure into compliance with the provisions of this chapter; and

(5) The initial notice shall contain a notice of warning informing the owner that subsequent exterior property area inspections at that same location within the next consecutive 12 months may be deemed an excessive consumption of exterior inspection services and that the owner may be liable for an exterior inspection services fee.

(C) *Method of service.* Such notice shall be deemed served if a copy of such notice is delivered to the owner personally or sent by certified or registered mail addressed to the owner at the last known address with return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy of such notice shall be posted in a conspicuous place in or about the structure affected by such notice and a copy forward by regular U.S. Mail. Service of such notice in the foregoing manners upon the owner's agent or upon

the person responsible for the structure shall constitute service of notice upon the owner.

(D) *Penalties.* Penalties for noncompliance with orders and notices shall be as set forth in § 156.34 of this chapter.

(E) *Excessive inspection fee.* The town shall be entitled to collect its costs of enforcement from a property owner who consumes excessive exterior inspection services. An excessive consumption of exterior inspection services occurs at each element of an exterior inspection cycle beginning after:

(1) Written notice of a violation is served following an initial inspection;

(2) Three additional exterior inspections are performed at the same location within a consecutive 12-month period after the initial inspection; and

(3) During each of the three additional exterior inspections under division (2) above, the Enforcement Officer finds violations which are either new violations or violations based upon failure to correct previous violations.

The fee for the fourth inspection in any 12-month period under this section shall be \$200 and an additional fee for each inspection thereafter in the same 12-month period shall be \$50. The owners who have received a notice of warning shall be jointly and severally liable for the excessive consumption of exterior inspection services fee. Action under this section does not preclude any other civil or criminal enforcement procedure or penalties.

(F) *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 said property 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, mortgage 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 repair required by such compliance order or notice of violation.

(Ord. 2002-15, passed 10-14-02)

§ 156.31 UNSAFE STRUCTURES AND EQUIPMENT.

(A) *Generally.* 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 chapter.

(1) **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 likely.

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

(3) **Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe or unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, it 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 chapter, or because the location of the structure constitutes a hazard to the occupants of the structure or the public.

2006 S-14 Repl.

(4) *Unlawful structure.* An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this chapter, or was erected, altered or occupied contrary to any law.

(B) *Closing of vacant 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 to be maintained, closed or secured so as not to be an attractive nuisance or pose any threat to the health, safety or welfare of the public or adjacent premises. Upon failure of the owner to close or secure the premises within the time specified in the order, the Code Official shall cause the premises to be maintained or closed through any available public agency or by contract or arrangement by private persons and the cost of closure shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(C) *Notice.* 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 this section. The notice shall be in the form prescribed in § 156.29 of this chapter.

(D) *Placarding.* Upon the failure of any 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 term "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(E) *Prohibited occupancy.* Any person who shall occupy a placarded premises or shall operate placarded equipment, and any other 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 this chapter.

2002 S-7

(F) *Removal of placard.* 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 chapter.

(Ord. 2002-15, passed 10-14-02)

§ 156.32 EMERGENCY POWERS.

(A) *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 adjacent property, 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 and premises a notice containing the following language:

"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 demolishing the structure.

(B) *Temporary safeguards.* Notwithstanding other provisions of this chapter, 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 described in this chapter has been instituted, and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

(C) *Closing streets.* When necessary for the public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

(D) *Emergency repairs.* For the purposes of this section, the Code Official shall have the authority to employ and purchase any necessary labor and materials to perform the required work for emergency repairs as expeditiously as possible without the need to comply with any town bidding, procurement or purchasing ordinances or requirements.

(E) *Costs of emergency repairs.* All costs incurred in the performance of emergency work shall be paid from the town's general fund upon approval of the Code Official and the Town Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located to perfect any lien and/or the recovery of all costs incurred by the town in making said repairs.

(F) *Hearing.* Any person ordered to take emergency measures shall comply with such order immediately. Any affected person shall thereafter, upon petition directed to the Appeals Board, be afforded a hearing as described in this chapter, but may not delay any such emergency appeal pending such appeal without the written approval of the Code Official.

(Ord. 2002-15, passed 10-14-02)

§ 156.33 DEMOLITION.

(A) *Generally.* The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgement 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 raze and remove such structure; or if such structure is capable of being made safe by repairs; to repair and make safe

2002 S-7

and sanitary or to raze 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 raze and remove such structure.

(B) *Order.* All notices and orders under this section shall comply with the notice requirements of § 156.29.

(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 razed and removed, either through an available public agency or by contract on arrangement with private persons, and the cost of such razing 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 razed and removed, the Code Official or other designated officer under such contract or arrangement 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 razing 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. 2002-15, passed 10-14-02)

§ 156.34 GENERAL PENALTY; CONTINUING VIOLATIONS.

(A) *Unlawful act.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, occupy, let to another or occupy or permit another person to occupy any premises, property, structure or equipment

regulated by this chapter, or cause same to be done, contrary to or in conflict with or in violation of any provisions of this chapter, or to fail to obey a lawful

order or regulation of the Code Official, or to remove or deface a placard or notice posted under the provisions of this chapter.

(B) *Failure of duty.* In this section, the term "violation" does not include the failure of a town officer or employee to perform an official duty under this chapter unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(C) *Penalty.* Any person who violates any provision of this chapter shall be subject to a fine of not less than \$50 nor more than \$2,500 for each offense and, except as otherwise provided by law or ordinance, each day that a violation continues under this chapter shall be deemed a separate and distinct offense.

(D) *Injunctive relief.* Violations of this chapter that are continuous with respect to time are hereby found to be and declared a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any penalty under this code or any other law does not prevent the town from seeking injunctive relief to abate any violation of this chapter.

(E) *Prosecution.* In case of any unlawful act, the Code Official shall institute an appropriate action or proceeding at law to exact the penalty provided in division (C) of this section. Also, the Code Official shall request the Town Attorney to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person to:

(1) Restrain, correct or remove the violation or refrain from any further execution of work or any further violation;

(2) Restrain or correct the erection, installation, maintenance, repair or alteration of such structure;

(3) Require the removal of work in violation; or

2002 S-7

(4) To prevent the occupancy of the structure that is not in compliance with the provisions of this chapter.

(F) The imposition of a penalty under this section does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(G) If a person is found to be financially unable to pay a fine at the time it is imposed, the fine may be ordered payable in monthly installments of not less than \$25 with the first payment due 30 days after imposition of the fine. Upon default in payment of any such installment, the entire balance of the fine shall be immediately due and payable with interest thereon at the judgment rate. (State law references: Limitations on penalties, IC 36-1-3-8(9), 36-1-3-8(10); enforcement of ordinances, IC 36-1-6-1 et seq.)

(H) Any penalty imposed under this section may be suspended for any violator that is, or above, 65 years of age upon their compliance with the provisions of this chapter. (Ord. 2002-15, passed 10-14-02)

**§ 156.35 APPEAL OF NOTICE OR ORDER;
BOARD OF ZONING APPEALS.**

(A) *Appeals.* Any person affected by a decision of the Code Official or a notice or order issued under this chapter shall have the right to appeal to the Board of Zoning Appeals ("BZA"), provided that a written application for appeal is filed within ten days after the date of the decision, notice or order was served. An

application for appeal shall be based only upon a claim that:

(1) The true intent of this chapter or the rule legally adopted in this chapter have been incorrectly interpreted;

(2) The provisions of this chapter do not fully apply; or

Property Maintenance Code

275

(3) The requirements of this chapter are adequately satisfied by other means.

(B) *Notice of appeal.* Any person filing an appeal under this section, shall complete a notice of appeal on forms provided by the Code Official and cause said notice to be filed in the Office of the Clerk-Treasurer and the Code Official within ten days after the date of the decision, notice or order was served. A notice of appeal delivered by regular first class mail shall be deemed filed upon the date of its receipt by the Clerk-Treasurer and not the date of

mailing, however, a notice of appeal received by certified mail, return receipt requested, shall be deemed filed with the Clerk-Treasurer on the date of mailing.

(C) *Hearing.* All appeals shall be heard by the BZA at a regular or special public meeting subject to the rules of the BZA. Any person requesting a special meeting shall pay, at the time of their request, all fees established for special meetings of the BZA. (Ord. 2002-15, passed 10-14-02)

