

APPROVED AS TO FORM:

COUNCIL AS A WHOLE

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*Martin*  
DEPARTMENT OF LAW

AN ORDINANCE

AMENDING THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN

ENACTING SECTION 546.16, QUALITY OF LIFE, OF THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN, WHICH IS MORE FULLY DEFINED HEREIN; AND

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

\* \* \*

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO:

SECTION 1

That **Section 546.16, QUALITY OF LIFE**, of the Codified Ordinances of the City of Youngstown, be and the same which is hereby enacted to read as follows:

**546.16 QUALITY OF LIFE.**

(A) **Adoption; Purpose.** The purpose of this Section is to establish Quality of Life Provisions, and put into effect a ticketing system which will allow for the issuance of tickets for nuisances and properties that are not properly maintained, and/or address issues that contribute to the deterioration of property values and general disorder in a community. These problems degrade the physical appearance of the City; which reduces business and tax revenue inhibiting economic development. The quality of life and community pride of the citizens of Youngstown are negatively impacted by the occurrences and existence of these activities. Recognizing that these are community problems, the purpose of this ordinance is to promote the health, safety and general welfare of the City by helping to create a clean and safe environment for the citizens of Youngstown.

(B) **Non-exclusive Remedies.** Nothing in this Chapter shall be construed to waive, relieve or otherwise excuse any person, property owner or tenant from compliance with all applicable codes, ordinances, statutes or laws. Nothing in this Chapter shall be

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construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of Youngstown or the Ohio Revised Code, and nothing in this Chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City of Youngstown or State of Ohio.

(C) **Applicability.** This Chapter shall be applicable to all persons and residential, commercial, and industrial structures located within the City of Youngstown.

(D) **Quality of Life Violations.** The Quality of Life Violations are as follows. Refer to the specified Sections or Chapters of the Codified Ordinances of the City of Youngstown, which are incorporated herein by reference, for further detail and information.

**QOL 1: Accumulation, littering or deposit of garbage, rubbish or junk—Section 521.08**

**QOL 2: Animal abuse and cruelty—Section 505.071**

**QOL 3: Animal maintenance and waste/feces clean up—Section 505.08**

**QOL 4: Barking or howling dogs—Section 505.19**

**QOL 5: Burning of trash, rubbish or garbage—Section 1511.05**

**QOL 6: Clothing Donation Containers—Chapter 786**

**QOL 7: Dumping garbage, refuse or waste—Section 1737.03**

**QOL 8: Garbage receptacles—Section 979.02**

**QOL 9: Illegal operation of a food cart or truck—Chapter 761**

**QOL 10: Illegal parking of motor vehicles—Section 351.03 + Zoning**

**QOL 11: Illegal parking of trucks, trailers and tractors—Section 351.16**

**QOL 12: Loud music—Section 539.07**

**QOL 13: Maintenance of grass and plants and elimination of weeds—Section 1749.01, 1749.02**

**QOL 14: Maintenance/removal of trees or shrubs impeding travel or destroying sidewalks—Section 921.01, 921.02**

**QOL 15: Permanent or portable basketball hoop on or near City property—Section 311.06**

**QOL 16: Possession or storage of hazardous materials—Section 1501.05**

**QOL 17: Storage of inoperable motor vehicles—Section 351.17**

**QOL 18: Storage of junk—Section 747.18**

**QOL 19: Storing or discarding of appliances—Section 521.01**

**QOL 20: Vicious and unleashed dogs—Section 505.19**

**(E) Enforcement**

(1) Upon finding a Quality of Life Violation, any peace officer, authorized inspector, or public official designated by the Mayor to enforce the City Ordinances may issue Quality of Life Violation Tickets to the owner and/or occupant of the property at issue, or to the individual known to have violated this ordinance.

(2) Any violation of the provisions referenced herein may be cause for a violation ticket, and/or a notice of violation to be issued to the violator.

(3) A violation ticket shall be served upon a violator by personal service to the violator, personal service to an adult member at the violator's residence, or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, or by mailing the notice to the violator's address of record.

**(F) Regulations**

The Code Official is hereby authorized to promulgate rules and regulations to implement and supplement the provisions of this Ordinance.

**(G) Separate Offense**

Each day a violation continues may constitute a separate offense for which a separate fine may be imposed.

#### **(H) Abatement of Violation**

Any person or business violating this ordinance is hereby directed to satisfy the City of Youngstown and its citizens, upon issuance of a Quality of Life Ticket, by correcting the violation in question. Any peace officer, authorized inspector, or public official designated by the Mayor to enforce the City Ordinances is authorized and empowered to cause a violation to be corrected. The cost shall be determined by the Code Official or his/her designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred.

The City of Youngstown and/or their contractor, per the direction of the City, reserve the right to abate the violation in question at the expense of the owner. If the City has effected the abatement of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. A bill/invoice will be generated to the violator for payment separate from the Quality of Life Ticket.

In all instances where the City abates the violation, in addition to the fine set forth in the Quality of Life Ticket, the City is authorized to recover from the offending party, the owner of the property, or tenant, the abatement charges and such other charges established by the Code Official in the rules and regulations.

#### **(I) Fines and Penalties**

##### **A. Violation Ticket Fines**

1. For the first violation of this Section within a twelve (12) month period, violation tickets shall be issued in the amounts of Twenty-Five Dollars (\$25.00) or Fifty Dollars (\$50.00) as set forth on the chart below.
2. For the second violation of this Section within a twelve (12) month period, violation tickets shall be issued in the amounts of Fifty Dollars (\$50.00) or One Hundred Dollars (\$100.00) as set forth on the chart below.



3. For the third and any subsequent violation of this Section within a twelve (12) month period, violation tickets shall be issued in the amount of One Hundred and Fifty Dollars (\$150.00) or Two Hundred and Fifty Dollars (\$250.00) as set forth on the chart below.
4. Any person who receives a violation ticket may within fifteen (15) days, admit the violation, waive a hearing, and pay the fine in full satisfaction.

Violation number for Quality of Life Ticket Ordinance	Brief description of violations for Quality of Life Ticket Ordinance	Fine 1	Fine 2	Fine for third and Subsequent instance
QOL 1	Accumulation, littering or depositing of garbage, rubbish or junk	\$25.00	\$50.00	\$100.00
QOL 2	Animal abuse and cruelty	\$25.00	\$50.00	\$100.00
QOL 3	Animal maintenance and waste/feces clean-up	\$25.00	\$50.00	\$100.00
QOL 4	Barking or howling dogs	\$25.00	\$50.00	\$100.00
QOL 5	Burning of trash, rubbish or garbage	\$50.00	\$100.00	\$250.00
QOL 6	Clothing Donation Containers	\$25.00	\$50.00	\$100.00
QOL 7	Dumping garbage, refuse or waste	\$50.00	\$100.00	\$250.00
QOL 8	Garbage receptacles	\$25.00	\$50.00	\$100.00
QOL 9	Illegal operation of a food cart or truck	\$25.00	\$50.00	\$100.00
QOL 10	Illegal parking of motor vehicles	\$25.00	\$50.00	\$100.00
QOL 11	Illegal parking of trucks, trailers and tractors	\$25.00	\$50.00	\$100.00
QOL 12	Loud music	\$25.00	\$50.00	\$100.00
QOL 13	Maintenance of grass and plants and elimination of weeds	\$25.00	\$50.00	\$100.00
QOL 14	Maintenance/removal of trees or shrubs impeding or destroying sidewalks	\$25.00	\$50.00	\$100.00
QOL 15	Permanent or portable basketball hoop on or near property	\$25.00	\$50.00	\$100.00
QOL 16	Possession or storage of hazardous materials	\$50.00	\$100.00	\$250.00
QOL 17	Storage of inoperable motor vehicles	\$25.00	\$50.00	\$100.00
QOL 18	Storage of junk	\$25.00	\$50.00	\$100.00
QOL 19	Storing or discarding of appliances	\$25.00	\$50.00	\$100.00
QOL 20	Vicious and unleashed dogs	\$25.00	\$50.00	\$100.00

#### **B. Violation Ticket Penalties**

- 1. If the person in receipt of a Twenty-Five Dollar (\$25.00) violation ticket does not pay the fine or request a hearing within fifteen (15) days, the person will be subject to a ten (\$10) penalty for days sixteen (16) through thirty (30).**
- 2. If the person in receipt of a Fifty Dollar (\$50.00) violation ticket does not pay the fine or request a hearing within fifteen (15)**

days, the person will be subject to a Twenty-Five dollar (\$25.00) penalty for days sixteen (16) through thirty (30).

3. If the person in receipt of a One Hundred Dollar (\$100.00) or Two Hundred and Fifty Dollar (\$250.00) or higher violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Fifty Dollar (\$50.00) penalty for days sixteen (16) through thirty (30).

#### **(J) Appeal**

##### **A. Administrative Appeal**

1. A person in receipt of a violation ticket may appeal to the Property Maintenance Appeals Board by filing a request with the Property Maintenance Division in writing within fifteen (15) calendar days of the date of the violation ticket.
2. In order for an appeal to be deemed valid and a hearing date and time to be set, the following must be performed by the alleged violator requesting the appeal within fifteen (15) calendar days of the date that the Quality of Life Ticket was issued:
  - A. All paperwork including the appropriate appeal form must be submitted and complete.
  - B. A cash appeal bond must be posted in the amount of the fine which will be refunded within thirty (30) calendar days should the alleged violator win his or her appeal.
3. The appeal hearing will be held before the Property Maintenance Appeals Board. The Board may uphold the appeal, deny the appeal, or modify the violation ticket and/or any associated costs, fines or penalty amounts as it deems appropriate.

##### **B. Subsequent Appeals**

Any subsequent appeal shall be filed in a court of competent jurisdiction.

#### **(K) Disbursement of Funds**

All monies collected pursuant hereto shall be transferred to the following funds in the proportion noted: Clerk Computerization Fund (10%), Police Equipment Fund (45%), Property Code Enforcement Fund (45%).

**(L) Severability.**

If any provision, paragraph, word or subsection of this Section is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs, words, sections or subsections shall not be affected and shall remain in full force and effect.

**SECTION 4**

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity **to enact Section 546.16, Quality of Life** of the Codified Ordinances of the City of Youngstown, as further herein above described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

MAYOR JOHN A. McNALEY

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*McNa*  
DEPARTMENT OF LAW

AN ORDINANCE

AMENDING THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN

**AMENDING SECTION 521.06, DUTY TO KEEP SIDEWALKS CLEAN**, OF THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN, TO INCLUDE A DEFINITION OF THE CENTRAL BUSINESS DISTRICT, AND ADD A PROVISION REQUIRING THAT ALL PROPERTY OWNERS AND OCCUPANTS WITHIN THE CENTRAL BUSINESS DISTRICT REMOVE SNOW AND ICE FROM THE SIDEWALKS WITHIN A SPECIFIED TIME OR PERMIT THE CITY TO REMOVE AND CHARGE FOR SUCH REMOVAL; AND

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

\* \* \*

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO:

SECTION 1

That **Section 521.06, Duty to Keep Sidewalks Clean**, of the Codified Ordinances of the City of Youngstown, which reads as follows:

**" 521.06 DUTY TO KEEP SIDEWALKS CLEAN.**

(a) No person owning or occupying any lot or premises abounding on or abutting on or adjacent to any sidewalk of the City shall permit that portion of such sidewalk which is situated in front of or abuts on his lot or premises to become or remain encumbered with dirt, filth, rubbish, ashes, snow or any other substance or encumbrance, which in any manner obstructs the free, common and convenient use of the sidewalk; and it shall be the duty of the owner of any such lot or premises immediately after the fall of any snow, to cause the same to be removed from the sidewalks of his premises, and also to keep the same free and clear from snow and other substances and open to the convenient use of the residents of the City.

"Sidewalk" as used herein includes any walk, whether made or constructed wholly or in part of stone, brick, gravel or earth covered with tanbark, sawdust, ashes, cinders or other materials, or the earth

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alone, so that the same is now or hereafter may be set apart and treated as a sidewalk, as distinguishable from the street proper.  
(1967 Code §95.43)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree."

**BE AND THE SAME IS HEREBY AMENDED TO READ AS FOLLOWS:**

**521.06 DUTY TO KEEP SIDEWALKS CLEAN.**

**(a) Definitions.**

(1) "Central business district" as used herein includes the area bounded by West and East Wood Street to the north, Watt Street, East Commerce Street (between Watt Street and East Federal Street) and South Avenue to the east, the Mahoning River to the south, and Spring Common Avenue (between the Mahoning River and West Front Street), West Front Street (between Spring Common Street and Martin Luther King, Jr. Boulevard) and Belmont Avenue to the west, inclusive of the sidewalks on both sides of the perimeter of this area.

(2) "Sidewalk" as used herein includes any walk, whether made or constructed wholly or in part of stone, brick, gravel or earth covered with tanbark, sawdust, ashes, cinders or other materials, or the earth alone, so that the same is now or hereafter may be set apart and treated as a sidewalk, as distinguishable from the street proper.

(b) No person owning or occupying any lot or premises abounding on or abutting on or adjacent to any sidewalk of the City shall permit that portion of such sidewalk which is situated in front of or abuts on his lot or premises to become or remain encumbered with dirt, filth, rubbish, ashes, snow or any other substance or encumbrance, which in any manner obstructs the free, common and convenient use of the sidewalk; and it shall be the duty of the owner of any such lot or premises immediately after the fall of any snow, to cause the same to be removed from the sidewalks of his premises, and also to keep the same free and clear from snow and other substances and open to the convenient use of the residents of the City.



(c) Due to the high level of pedestrian traffic in the central business district as defined herein, all property owners and occupants within this designated area shall clear snow and ice from City sidewalks by 7:00 AM on the day subsequent to any snowfall. A minimum 42 inch path shall be cleared, or if the sidewalk is less than 42 inches, the full width shall be cleared. Additionally, the full length of all sidewalks shall be cleared, including from corners and curb ramps.

(1) If the property owner fails to remove snow and ice within the time stated herein, the City may remove the snow and ice at a cost of One Hundred Fifty Dollars (\$150.00) per occurrence for up to 100 linear feet, and Two Hundred Fifty Dollars (\$250.00) per occurrence for 100 linear feet or more.

(2) The fees for removal will be added to the property owner's water bill the next billing period. Any property owner, who incurs charges for snow removal pursuant hereto and disputes said charges, may request a hearing in accordance with the Water Department Rules and Regulations. If the property owner does not have a water account with the City of Youngstown Water Department, the City will certify the costs, together with a proper description of the land, to the County Auditor who shall place said costs upon the tax list and duplicate.

(3) All monies collected pursuant hereto shall be used for operations in the Buildings and Grounds Department.

(d) Whoever violates any provision in this section is guilty of a misdemeanor of the fourth degree.

## **SECTION 2**

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity **to amend Section 521.06, Duty to Keep Sidewalks Clean**, of the Codified Ordinances of the City of Youngstown, as further herein above described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

MAYOR JOHN A. McNALLY

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*My wife*  
DEPARTMENT OF LAW

AN ORDINANCE

AMENDING THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN

AMENDING SECTION 1749.04, COSTS OF REMOVAL, OF THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN, WHICH IS MORE FULLY DEFINED HEREIN; AND

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

\* \* \*

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO:

SECTION 1

That **Section 1749.04, Costs of Removal**, of the Codified Ordinances of the City of Youngstown, which reads as follows:

**1749.04 Costs of Removal**

"The costs of removal or abatement of a public nuisance described in Section 1749.01 shall become the personal obligation of the property owner from which such public nuisance has been removed or abated by the City pursuant to Section 1749.03. Such cost shall be the total cost of removal or abatement, at a minimum service charge of One Hundred Fifty Dollars (\$150.00) per occurrence.

When the property owner owns two or more contiguous parcels of land, such cost shall be the total cost of removal or abatement, at a minimum service charge of One Hundred Fifty Dollars (\$150.00) per occurrence, for the first parcel of land. For each contiguous parcel of land, such cost shall be the total cost of removal or abatement, at a minimum service charge of One Hundred Dollars (\$100.00) per occurrence.

The costs or charges for such removal or abatement shall be collected from the property owners by any duly appointed collection agency or agent acting on the City's behalf as an outstanding debt owed to the City. If, after reasonable efforts, such cost or charges are uncollected as an outstanding debt owed to the City by any duly appointed collection agency or agent then the cost or charges for such removal or abatement may be certified by the City to the County Auditor,

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to be assessed against the property and thereby made a lien upon it and collected as other taxes."

**BE AND THE SAME IS HEREBY AMENDED TO READ AS FOLLOWS:**

**1749.04 Costs of Removal**

(A) The costs of removal or abatement of a public nuisance described in Section 1749.01 shall become the personal obligation of the owner of the property from which such public nuisance has been removed or abated by the City **or its contractors** pursuant to Section 1749.03. Such cost shall be the total cost of removal or abatement, at a minimum service charge of One Hundred Fifty Dollars (\$150.00) per occurrence. When the property owner owns two or more contiguous parcels of land, such cost shall be the total cost of removal or abatement, at a minimum service charge of One Hundred Fifty Dollars (\$150.00) per occurrence, for the first parcel of land. For each contiguous parcel of land, such cost shall be the total cost of removal or abatement, at a minimum service charge of One Hundred Dollars (\$100.00) per occurrence.

(B) **The City of Youngstown may collect the costs or charges for such removal or abatement from the property owners. At any time after such costs are incurred, subject to limitations as provided by law, the City of Youngstown or a duly retained agent or attorney at law shall send a letter attempting to collect such costs to the property owner at the property owner's last known address, via regular U.S. mail. If the property owner fails to pay within 30 days of the date of the letter, then the City of Youngstown or a duly retained agent or attorney at law may collect the cost or charges from the property owners by any of the following methods:**

(1) **The City of Youngstown or a duly retained agent or attorney at law may certify the total costs, together with a proper description of the lands, to the County Auditor who shall place the costs upon the tax list and duplicate. The costs are a lien upon such lands from and after the date the costs were incurred. The costs shall be collected as other taxes and returned to the City of Youngstown. The placement of the costs on the tax list and duplicate relates back to, and is effective in priority, as of the date the costs were incurred, provided that the City of Youngstown or its duly retained agent or attorney at law certifies the total costs within one year from the date the costs were incurred. Such certification shall not,**

however, preclude other methods of recovery of such cost as may be authorized generally by law; and/or

- (2) The City of Youngstown or a duly retained agent or attorney at law may commence a civil action to recover the total costs from the owner.

## SECTION 2

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity to **amend Section 1749.04, Costs of Removal**, of the Codified Ordinances of the City of Youngstown, as further herein above described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

MAYOR JOHN A. McNALLY

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*Mark*  
DEPARTMENT OF LAW

AN ORDINANCE

AMENDING THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN

AMENDING SECTIONS 1749.01, DECLARED A NUISANCE,  
1749.02, GRASS, WEEDS AND PLANTS; DUTY TO CUT,  
NONCOMPLIANCE, AND 1749.03, FAILURE TO REMOVE, OF  
THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN;  
AND

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY  
MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF  
THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE  
EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST  
PERIOD ALLOWED BY LAW.

\* \* \*

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN,  
STATE OF OHIO:

SECTION 1

That **Section 1749.01, Declared a Nuisance**, of the Codified  
Ordinances of the City of Youngstown, which reads as follows:

**1749.01 DECLARED A NUISANCE**

"Any grasses, weeds and plants including, but not limited to,  
thistles, jimsonweed, burdock, ragweed, cocklebur or any plants or  
vegetation, other than trees, bushes, flowers, cultivated ornamental  
flowers, trees, bushes and plants found growing to a height exceeding  
eight (8) inches in any lot, parcel or tract of land, within the City, are  
hereby declared to be unlawful as a public nuisance and detrimental to  
the health, safety and welfare of the general public.

Any plants, bushes, shrubs, trees or other vegetation including  
cultivated ornamental flowers, trees, bushes and plants hanging over or  
growing onto or along any curb, sidewalk, street, lane or alleyway or  
other public ground within the City so as to create a hazard or  
obstruction to pedestrian or vehicular traffic and detrimental to the  
health, safety and welfare of the general public are hereby declared to be  
unlawful as a public nuisance."

BE AND THE SAME IS HEREBY AMENDED TO READ AS FOLLOWS:

1749.01 DECLARED A NUISANCE

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health, safety and welfare of the general public are hereby declared to be unlawful as a public nuisance."

**BE AND THE SAME IS HEREBY AMENDED TO READ AS FOLLOWS:**

**1749.01 DECLARED A NUISANCE**

Any grasses, weeds and plants including, but not limited to, thistles, jimsonweed, burdock, ragweed, cocklebur or any plants or vegetation, other than trees, bushes, flowers, cultivated ornamental flowers, trees, bushes and plants found growing to a height exceeding **six (6)** inches in any lot, parcel or tract of land, within the City, are hereby declared to be unlawful as a public nuisance and detrimental to the health, safety and welfare of the general public.

Any plants, bushes, shrubs, trees or other vegetation including cultivated ornamental flowers, trees, bushes and plants hanging over or growing onto or along any curb, sidewalk, street, lane or alleyway or other public ground within the City so as to create a hazard or obstruction to pedestrian or vehicular traffic and detrimental to the health, safety and welfare of the general public are hereby declared to be unlawful as a public nuisance.

**SECTION 2**

That **Section 1749.02, Grass, Weeds and Plants; Duty to Cut; Noncompliance**, of the Codified Ordinances of the City of Youngstown, which reads as follows:

**1749.02 GRASS, WEEDS AND PLANTS; DUTY TO CUT; NONCOMPLIANCE.**

"No person, whether an owner, lessee, agent, tenant, or business entity, having charge of any lot of land within the City shall permit weeds, tall grass and/or plants specified under Section 1749.01 in excess of eight inches in height to remain standing upon his or her property. Furthermore, no person, whether an owner, lessee, agent, tenant or business entity, having charge of any lot of land within the City shall permit any plants, bushes, shrubs, trees or other vegetation including cultivated ornamental flowers, trees, bushes and plants hanging over or growing onto or along any curb, sidewalk, street, lane or alleyway or other public ground within the City to create a hazard or obstruction to pedestrian or vehicular traffic."

"The City may issue a citation to the owner or tenant to cut or remove the grass, weeds, and/or plants specified under Section 1749.01. The

City, in its sole discretion, may issue or post a warning notice to the owner or tenant prior to issuing a citation. Posted notices shall be in at least twelve-point type and prominently posted on or near the property."

"A violation of this Section is a nuisance per se pursuant to Section 1749.01, and as such the City may enter said lot of land to abate the nuisance without issuing or posting notice in order to protect the health, safety and welfare of the general public."

**BE AND THE SAME IS HEREBY AMENDED TO READ AS FOLLOWS:**

**1749.02 GRASS, WEEDS AND PLANTS; DUTY TO CUT;  
NONCOMPLIANCE.**

No person, whether an owner, lessee, agent, tenant, or business entity, having charge of any lot of land within the City shall permit weeds, tall grass and/or plants specified under Section 1749.01 in excess of **six (6) inches** in height to remain standing upon his or her property. Furthermore, no person, whether an owner, lessee, agent, tenant or business entity, having charge of any lot of land within the City shall permit any plants, bushes, shrubs, trees or other vegetation including cultivated ornamental flowers, trees, bushes and plants hanging over or growing onto or along any curb, sidewalk, street, lane or alleyway or other public ground within the City to create a hazard or obstruction to pedestrian or vehicular traffic.

The City may issue a citation to the owner or tenant to cut or remove the grass, weeds, and/or plants specified under Section 1749.01. The City, in its sole discretion, may issue or post a warning notice to the owner or tenant prior to issuing a citation. Posted notices shall be in at least twelve-point type and prominently posted on or near the property.

A violation of this Section is a nuisance per se pursuant to Section 1749.01, and as such the City may enter said lot of land to abate the nuisance without issuing or posting notice in order to protect the health, safety and welfare of the general public.

### SECTION 3

That **Section 1749.03, Failure to Remove**, of the Codified Ordinances of the City of Youngstown, which reads as follows:

#### **1749.03 FAILURE TO REMOVE.**

"In addition to or in lieu of issuing a citation, and concurrent with same, the City or its agent may cut or remove the grass or weeds and recover its expenses for such work. All fees recovered for such abatement shall be in addition to any penalties under Section 1749.99."

#### **BE AND THE SAME IS HEREBY AMENDED TO READ AS FOLLOWS:**

#### **1749.03 FAILURE TO REMOVE.**

Upon violation of 1749.02, the City or its agent may remove the grass and/or weeds and continue to maintain the property at issue for the remainder of the growing season (April 1- October 31), and recover the total cost for all services. All fees recovered pursuant hereto shall be in addition to any penalties under Section 1749.99.

### SECTION 4

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity to **amend Sections 1749.01, Declared a Nuisance, 1749.02, Grass, Weeds and Plants; Duty to cut; Noncompliance, and 1749.03, Failure to Remove** of the Codified Ordinances of the City of Youngstown, as further herein above described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

MAYOR JOHN A. McNALLY

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*Mate*

AN ORDINANCE

DEPARTMENT OF LAW

AMENDING THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN

REPEALING IN ITS ENTIRETY, CHAPTER 546, PROPERTY MAINTENANCE CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN, WHICH IS MORE FULLY DEFINED HEREIN; AND

FURTHER, ENACTING A NEW CHAPTER 546, PROPERTY MAINTENANCE CODE TO REPLACE THIS SECTION, WHICH IS MORE FULLY DEFINED HEREIN; AND

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

\* \* \*

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO:

SECTION 1

That **Chapter 546, Property Maintenance Code**, of the Codified Ordinances of the City of Youngstown, is hereby repealed in its entirety.

SECTION 2

That **Chapter 546, Property Maintenance Code** of the Codified Ordinances of the City of Youngstown, is hereby enacted to read as follows:

**546.01 GENERAL.**

(a) Title. These regulations shall be known as the **Property Maintenance Code of the City of Youngstown, Ohio**, hereinafter referred to as "this code."

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

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(c) Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required, herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the Ohio Building Code.

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

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

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

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

(h) Requirements Not Covered by Code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the Code Official.

(i) Applicability. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in this section. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.



**546.02 CODE OFFICIAL.**

(a) General. There shall be appointed a Code Official charged with enforcing this code both directly and through his/her designees.

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

(c) Notices and Orders. The Code Official or his/her designees shall issue all necessary notices or orders to ensure compliance with this code.

(d) Citations. The Code Official or his/her designees may issue citations in enforcing this Code, when he/she deems appropriate.

(e) Liability. The Code Official, or his/her designees and any officers, employees or agents charged with enforcing this code, while acting for the City of Youngstown, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of their official duties.

(f) Right of Entry. The Code Official, his/her designee, and any officers, employees or agents charged with enforcing this code are authorized to enter upon any premises at reasonable times for purposes of inspection.

(g) Code Official Access. The Code Official, his/her designee, and any officers, employees or agents charged with enforcing this code may inspect the interior of the premise at all reasonable times with the consent of the property owner or occupant. If consent is denied, the inspector may not enter unless there are exigent circumstances or a warrant is obtained.

(h) Owner Access. Every occupant of a rental unit shall give the owner or operator thereof, his agent or employee, access to any part of a structure or premises, dwelling, dwelling unit or rooming unit at reasonable times for the purpose of permitting such inspections, maintenance, repairs or alterations as are necessary to comply with the provisions of this code. Except in the case of emergency, or if it is impracticable to do so, the owner or operator must give the occupant reasonable notice of the intent to enter. Twenty-four hours is presumed to be reasonable notice, in the absence of

evidence to the contrary.

#### 546.03 APPROVAL.

(a) Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the Code Official shall have the authority to grant modifications for individual cases, provided the Code Official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

(b) Alternative Materials, Methods and Equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

(c) Required Testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency.

Reports of tests shall be retained by the Code Official for the period required for retention of public records.

(d) Material and Equipment Reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

#### **546.04 VIOLATIONS.**

No person, corporation, firm or other entity shall fail to comply with, be in conflict with, or be in violation of any provision of this code, or any order issued by the Code Official, her designee or any officer, employee or agent of the City of Youngstown relating to the enforcement of this code.

#### **546.05 NOTICE OF VIOLATION.**

(a) Whenever the Code Official or his/her designee determines that there has been a violation of any provision of this code, he/ she may give notice to the person or entity responsible therefore and order compliance, as herein provided except when condemning property or equipment pursuant to 546.07. The notice and order shall:

(1) Be put in writing on the appropriate form, as the Code Official shall determine;

(2) Include a list of violations, refer to the sections and divisions violated, order remedial action which will effect compliance with the provisions of this code, and set forth the procedure by which to appeal the determination; and

(3) Specify a reasonable time within which to comply.

Such notice and order shall be deemed to be properly served if a copy is delivered to the owner, operator, entity in control of the premises, or occupant, personally, or by regular mail to their residence, regular place of business, or last known address, and posted in a conspicuous place in or on their 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 code, the Code Official shall have the authority to impose an administrative penalty. The Code Official shall consider the following criteria in assessing an administrative penalty:

(1) The extent to which the person has benefited by the violation of this code;

(2) The degree of harm to the public health, safety, welfare and aesthetics as a result of the violation of this code;

(3) The recidivism of 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 code; and

(5) The duration of the violation after a notice and order to comply was served pursuant to this section.

(c) The imposition of an administrative fine shall be accomplished only after a notice and order is provided to the occupant, operator or owner. Notice of a decision imposing an administrative fine shall:

(1) Be put in writing on an appropriate form as the Code

Official shall determine;

(2) State the basis for the administrative penalty, including the section of this code that has been violated, set forth the procedure to appeal from its imposition; and

(3) Specify the date and manner by which the penalty must be paid.

Such notice and order shall be deemed to be properly served if a copy is delivered to the owner, operator, entity in control of the premises, or occupant, personally, or regular mail to their residence, regular place of business or last known address and, posted in a conspicuous place in or on their residence, regular place of business, last known address or the building affected.

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

#### 546.06 PENALTY.

(a) In addition to any criminal penalties that may be imposed, any person or entity who violates or fails to comply with any of the provisions of this code shall be subject to the following administrative penalties:

(1) For a first offense, an administrative penalty of One Hundred Dollars (\$100.00)

(2) For a second offense, an administrative penalty of Five Hundred Dollars (\$500.00)

(3) For a third offense, an administrative penalty of One Thousand Dollars (\$1,000.00)

(b) Notice of an administrative penalty shall be posted to the property or sent to the property owner at his or her last known address via regular U.S. mail. If any recipient of an administrative penalty fails to pay said penalty within 30 days of the date listed on the notice, then the City of Youngstown or a duly retained agent or

attorney at law may collect the penalty by any of the following methods:

(1) The City of Youngstown or a duly retained agent or attorney at law may certify the administrative penalty, together with a proper description of the lands, to the County Auditor who shall place the amount of the administrative penalty upon the tax list and duplicate. The penalty is a lien upon such lands from and after the date the penalty was imposed. The penalty shall be collected as other taxes and returned to the City of Youngstown. The placement of the penalty on the tax list and duplicate relates back to, and is effective in priority, as of the date the fine was imposed, provided that the City of Youngstown or its duly appointed agent or attorney at law certifies the total costs within one year from the date the penalty was imposed. Such certification shall not, however, preclude other methods of recovery of such cost as may be authorized generally by law; and/or

(2) The City of Youngstown or a duly retained agent or attorney at law may commence a civil action to recover the total penalty from the owner.

(c) Money collected under subsections (a) and (b) hereof shall be used exclusively for the enforcement of this code.

(d) Criminal Penalties. In addition to any administrative penalties that may be imposed, any person or entity who violates or fails to comply with any provision of this code shall be guilty of a misdemeanor of the third degree and shall be fined not more than \$500.00 or imprisoned more than 60 days or both. A prior warning or notice is not a prerequisite for prosecution or conviction for violation of any provision of this code.

#### 546.07 Condemnation of Unsafe Structures and Equipment

(a) Definitions.

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



(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, unlawful, or because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(4) Unlawful Structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law, or otherwise in violation of this code.

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

(c) Notice.

(1) When the Code Official has condemned a structure or equipment under the provisions of this section, notice shall:

- a. Be in writing,
- b. Include a description of the property sufficient for identification,
- c. Include a statement of the reason or reasons for its issuance, and
- d. Include an order allowing a reasonable time for the repairs and improvements required to bring the structure into compliance with the provisions of this section.

(2) Notice shall be provided as follows:

- a. Notice shall be sent via certified and regular U.S. mail to the property owner's last known address;



b. Notice shall be sent via certified and regular U.S. mail to all holders of legal or equitable liens of record upon the real property at issue, if applicable;

c. Notice shall be posted to the property at issue, in a conspicuous place; and

d. Notice shall be published in a local newspaper of general circulation at least once a week for two consecutive weeks.

(d) Mitigation of Hazards

(1) 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 order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Code Official may cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and collect the costs associated pursuant to 546.98.

(2) Placarding. Upon condemning a structure or equipment, the Code Official shall post on the premises or defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(3) Placard Removal. The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. No person shall remove or deface the condemnation placard without the approval of the Code Official.

(4) Prohibited Occupancy. Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. No person shall enter, remain in, or occupy any placarded premises except for purposes of making the repairs or to comply with the orders of the Code Official. No owner, operator, or person responsible for a placarded premises shall allow or permit anyone to occupy, enter, or remain in the placarded premises except for purposes of making the repairs or to comply with the orders of the Code Official.

(5) Failure to comply with Order. If any person, when ordered by the Code Official or his/her designee to vacate an unsafe building or structure, should fail to comply with the order, the Chief

of Police shall be advised of all the facts in the case and it shall be the duty of the Chief of Police to vacate such building or structure.

(e) Demolition of a condemned structure.

- (1) Structures condemned in accordance with the above requirements are subject to demolition.
- (2) The property owner of a condemned structure may appeal the Condemnation Notice within 15 days of the date on the notice.
- (3) If the property owner fails to file an appeal within 15 days, the Code Enforcement Official shall issue a Notice of Demolition at least 30 days after the date of notice, unless the structure is no longer unsafe, is lawful, and is fit for human habitation.
- (4) If the property owner files an appeal, then the appeal shall be heard by the Property Maintenance Appeals Board within 30 days of the date of receipt of the appeal.
- (5) If an appeal is denied by the Property Maintenance Appeals Board at any time, the Board shall issue a notice of denial to the property owner.
- (6) After the denial of an appeal, the Code Official shall issue a Notice of Demolition.
- (7) Notice of Demolition shall be sent via regular U.S. mail to the property owner's last known address.

(f) Recovery of costs. Costs incurred in carrying out the provisions herein shall be collected pursuant to 546.98.

(g) Emergency Demolition and Condemnation

- (1) If at any time during the condemnation process the property presents emergency conditions, as outlined in section 1525.01, the property shall be subject to an emergency demolition order and procedure as provided in Chapter 1525.
- (2) The fact that a property has been condemned shall not affect or preclude the use of the emergency demolition process.

**546.09 APPEALS.**

(a) Notice of Appeal. Any recipient of a notice or order issued by the Code Official in connection with the enforcement of this code may request a hearing on the matter before the Property Maintenance Appeals Board. The Appellant shall file, in the Code

Enforcement Department, Youngstown City Hall - 5th Floor, 26 S. Phelps Street, Youngstown, Ohio 44503, a written request for a hearing setting forth the address of the property which was the subject of the notice and order, the name, address, and telephone number of the Appellant, and a brief statement of the grounds for the appeal. Requests shall be filed within fifteen (15) days after the date of the notice, and shall be accompanied by a deposit of \$15.00 which shall be nonrefundable, or an affidavit of indigency. Upon receipt of the request, the Property Maintenance Appeals Board will set a hearing within 30 days. Upon setting the hearing, the Appeals Board shall notify the appellant of the date, time and place. Written notice of the hearing shall be sent by ordinary U.S. Mail at least five (5) days prior to the hearing. At the hearing, the Appellant shall be given an opportunity to be heard and to show cause why the notice or order should be modified or dismissed, or why a variance should be granted. The failure of the Appellant or his/her representative to appear and present his/her position at the hearing shall be grounds for dismissal of the appeal.

(b) Variances. The Property Maintenance Appeals Board shall interpret the intent of this code in specific cases where, on appeal, it clearly appears that, by reason of special conditions, undue hardship would result from a literal application of any section of this code. Where undue hardship is clearly demonstrated, the Board may permit a variance from the applicable section if the dwelling will vary only slightly from the literal provisions of this code, but will comply with the spirit and intent of this code.

(c) Decisions. After a hearing on the request, the Property Maintenance Appeals Board may affirm, disaffirm, modify or dismiss the notice or order, or grant a variance from the notice or order, by a majority vote of the Board members who are present. The Appellant shall be notified within 15 days of the hearing, in writing, of the findings. Decisions shall be sent by regular U.S. mail to the Appellant's last known address.

(d) Records. The proceedings before the Property Maintenance Appeals Board shall be recorded and its decisions shall be set forth in writing. The recordings and written decisions shall be entered as a matter of public record in the Code Enforcement Department. Any person aggrieved by the decision of the Property Maintenance Appeals Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the State of Ohio.

#### **546.10 PROPERTY MAINTENANCE APPEALS BOARD.**

(a) The Appeals Board shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not

employees of the City of Youngstown. The Board shall be appointed by the Mayor of the City of Youngstown.

(b) The Mayor shall also appoint two or more alternative members who shall sit on the Board to hear appeals when needed due to the absence or disqualification of other Board members. Alternate members shall possess the qualifications required for Board membership.

(1) A quorum shall be two (2) members.

(2) The Appeals Board shall adopt rules of procedure not inconsistent with the provisions and intent of this Code.

(3) No member shall take part in an appeal or vote on any matter in which the member has a direct or indirect personal, professional or financial interest.

(4) Members shall serve without compensation.

(c) Additional Duties of the Appeals Board. In addition to those duties elsewhere outlined in this code, the following duties shall also be the responsibility of the Property Maintenance Appeals Board:

(1) The Board shall have the authority to grant extension(s) of time for compliance with notices and orders issued by the Administrator or authorized designee. Application for extensions of time for compliance shall be considered on the basis of public interest and welfare in addition to any possible economic benefit or hardship to applicant, and shall be granted only when it is established that such request will not be detrimental to the occupants or to public health, safety or welfare.

(2) The Board shall have the authority to grant appeals for or waiver of provisions of this code in specific cases where it clearly appears that by reason of special conditions, undue hardship would result from a literal translation or application of any section of this code. Applications for variances and waivers shall be granted only where the deviations are minor in character, and where it appears that substantial compliance with the minimum housing standards and the spirit and intent of this code have been met by the applicant and that granting of the variance or waiver would not be detrimental to the occupants or to the public health, safety or welfare.

(3) The Board may suggest for adoption, revisions or amendments to sections of this code for the purpose of improving the implementation, enforcement, administration, or interpretation of this code, and to provide an effective means for maintaining current minimum housing standards and enforcement procedures within the framework of this code. Such suggestions shall be adopted and become effective after a public hearing has been held by the Board pursuant to the notice published at least ten (10) days

prior to the hearing; and they have been approved by the City Council and filed with the Clerk of City Council.

(4) The Board shall make continuing studies, periodic reports and recommendations:

For the improvement of minimum housing standards for the City of Youngstown, and to work in cooperation with all federal, state and local agencies interested in minimal housing standards and elimination of slum and blighted areas, and

To publicize the importance of adequate minimum housing standards, to hold and conduct public hearings, discussions, forums and institute and arrange for programs for the presentation of information by experts in the field of housing and to visit and study housing programs conducted in other important areas.

#### **546.11 RESPONSIBILITIES OF OWNERS AND OPERATORS OF RENTAL UNITS.**

(a) Scope. Owners and operators of any rental unit shall be cognizant of and comply with the responsibilities of their positions as set forth in this section. A rental unit is any dwelling unit, housekeeping unit, or rooming unit as defined in this code or any apartment, structure, property or portions thereof let or rented for a person to reside in, held out to be let or rented as a residence, or resided in based on a contract between the occupant and the owner or operator.

(b) The owner of the rental unit shall (1) maintain it, including the interior, exterior property areas, and exterior structure, in good repair and safe conditions as required by this code, (2) maintain in a clear and sanitary condition the shared public or common areas, (3) provide all utilities, facilities, equipment and services required by this code, (4) provide for the extermination of insects in an acceptable means not injurious to human health, (5) provide solid waste disposal facilities or containers for all dwelling units, and (6) comply with all regulations and rules designated by the Rental Property Registration Administrator to enforce and interpret this section.

(c) The Rental Property Registration Administrator (RPR Administrator) is charged with the enforcement of this section including but not limited to, conducting inspections and issuing notices, orders and penalties and, in so doing, acts as authorized representative of the City of Youngstown.

(d) No person, corporation or other business entity or any owner of property shall rent, let or contract for the occupancy of a rental unit or hold said rental unit out for rental unless it has obtained a rental license from the RPR Administrator for it. A provisional rental license will be issued upon receipt of a completed application



and payment of the fees set forth in this section. Said provisional license shall be issued by the RPR Administrator until the rental unit has been inspected by the RPR Administrator or his/her designee and is found to be in compliance with the requirements of this section.

The provisional license will allow continued occupancy until the property is inspected by the RPR Administrator or her designee. The RPR Administrator will then decide to either issue or deny the rental license based upon the standards set forth in this code. Provisional licenses may be renewed from year to year.

Provisional licenses may be denied, revoked, suspended or not renewed in the same manner as rental licenses.

(e) An application for an authorized rental license shall be provided to the RPR Administrator in writing on the form provided by him/her and must be fully completed.

(f) Upon successful completion of the inspection, the RPR Administrator shall issue an authorized rental license for the rental unit. Such license shall be valid for one year unless a change or alteration of the premises shall alter the authorized occupancy.

(g) Each rental unit is required to have a rental license or provisional rental license. An application for a rental license or provisional rental license shall be accompanied by a nonrefundable fee of Forty Dollars (\$40.00) for a single rental unit. For properties containing multiple rental units, there will be a non-refundable fee required of Forty Dollars (\$40.00) for the first rental unit on the property and a non-refundable fee of Twenty-Five Dollars (\$25.00) required for each additional rental unit on the property. If a license is not renewed within fifteen (15) days of the yearly expiration date, the fee will be doubled.

(h) Public housing or any rental units subject to annual inspection pursuant to federal regulations are not required to obtain a rental license.

(i) No owner of property nor any person, corporation or other business entity shall rent, lease or let any rental unit unless it holds an authorized rental license issued by the RPR Administrator which has not expired, or otherwise become null and void. Said conduct is unlawful and a violation of this code. The occupation of a premises by a person other than the titled owner combined with the fact that said owner lists a different address as his/her own in the records of the Office of the Mahoning County Auditor shall be prima facie evidence that the premises is a rental unit being rented, leased or let.

In addition to any other penalties to which the violator may be subject, a penalty of One Hundred Dollars (\$100.00) shall be imposed by the RPR Administrator for each week the rental unit is

being rented, leased or let without a current rental license or provisional rental license.

(j) Should the RPR Administrator or his designee determine that a rental unit does not comply with the requirements of this section, the RPR Administrator shall notify the titled owner by regular U.S. Mail to the address he has provided in his application that said rental unit does not comply with the requirements of this section, set forth the violations, and order that the violations be corrected in thirty (30) days. The rental unit shall then be reinspected by the RPR Administrator or his/her designee. A fee of Forty Dollars (\$40.00) shall be imposed on the owner by the RPR Administrator for this re-inspection.

(k) Owners of rental units are required to provide access and entry to their rental units to the RPR Administrator at all reasonable times. Should the owner of said property fail to schedule an appointment within 30 days after having been notified of the need to do so by ordinary U.S. Mail sent to the address provided in their application, the RPR Administrator shall select a date and time and order the owner to make the rental unit available for inspection. The owner shall be notified by ordinary U.S. Mail sent to the address provided in their application.

If the owner fails to provide access and entry to their rental unit on the date and time designated in the above fashion, a penalty of One Hundred Dollars (\$100.00) shall be imposed by the RPR Administrator against the owner for failing to make the rental unit available for inspection. Said penalty is in addition to any other penalties to which the owner may be subject to for violating this code.

(l) Should an owner schedule an appointment with the RPR Administrator or his/her designee and seek to cancel said appointment but fail to do so by 8:00 a.m. of the day of the scheduled inspection, the RPR Administrator shall impose a penalty of Twenty-Five Dollars (\$25.00) against the owner.

The RPR Administrator may then choose to schedule a new date with the owner or impose a time and date in the manner set forth in subsection (k) hereof. In either case, the RPR Administrator shall impose a One Hundred Dollar (\$100.00) fine against the owner if the rental unit is not made available for inspection on the next selected date and time.

(m) Violation of any provision of this section is also a violation of this code and is also subject to the penalties set forth in Section 546.06.

#### **546.12 RESPONSIBILITIES OF OCCUPANTS OF RENTAL UNITS.**

(a) Scope. Occupants of any rental unit shall be cognizant of and



comply with the responsibilities of their position as set forth in this section.

(b) Occupants of a Rental Unit. All occupants of a rental unit are obligated:

(1) To keep that part of the dwelling unit and premises thereof which he occupies, controls or uses in a clean and sanitary condition.

(2) To dispose of all his solid waste material in a clean and sanitary manner by placing it in the disposal facilities or container required by Section 546.11 of this code.

(3) To supply such facilities or containers for his use, except where it is required that the owner furnish same under Section 546.11 of this code.

(4) To hang insect screens except where the owner has agreed to supply such services.

(5) To keep all plumbing fixtures in a clean and sanitary condition and be responsible for the exercise of reasonable care in their proper use and operation.

(6) To exercise reasonable care in the use of that part of the dwelling and premises which he occupies and controls or uses; this includes all parts and equipment so supplied.

(7) In addition, to maintain in good and safe working order the equipment, appliances and fixtures which he owns.

(c) Access by Owner or Operator. All occupants of rental units are obligated to give access to any part of their rental unit at any reasonable time to the owner or operator thereof, his agent or employee in order for them to make said rental unit available for inspection by the RPR Administrator or her designee.

(d) Violation of any provision of this section is also a violation of this code and is also subject to the penalties set forth in Section 546.06.

#### **546.13 INTERNATIONAL PROPERTY MAINTENANCE CODE.**

Chapters Two through Eight of the 2003 International Property Maintenance Code are adopted by reference into this code by Youngstown City Ordinance 03-220 as amended by Youngstown City Ordinance 11-106 and 11-344. They are incorporated as if fully rewritten herein. Copies are on file with the Clerk of Council.

#### **546.14 VACANT PROPERTY REGISTRY.**

(a) Adoption; Purpose. The purpose of this Chapter is to establish a vacant property registration program and to regulate the maintenance of properties which are in the foreclosure process, abandoned or vacant. This Chapter is intended to reduce and prevent neighborhood blight, to avoid the creation and maintenance

of public nuisances, to ameliorate conditions that threaten the public health, safety and welfare, to promote neighborhood stability and occupancy by preserving the condition and appearance of residential properties and the worth and activity of commercial and industrial properties, and to maintain property values and assessments.

There is hereby adopted, then, for the aforementioned purposes and for the purpose of providing a means of identifying the owner and/or responsible entities of vacant and/or abandoned properties within the corporate limits of the City of Youngstown, having a complete contact information on record for these properties and responsible parties, a registration and maintenance requirement for vacant and/or abandoned properties.

Nothing in this Chapter shall be construed to waive, relieve or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statutes or laws and the owner shall at all times remain responsible and liable therefore. Nothing in this Chapter shall be construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of Youngstown or the Ohio Revised Code and nothing in this Chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City of Youngstown or State of Ohio.

(1) Applicability. This Chapter shall be applicable to all residential, commercial, and industrial structures located within the City of Youngstown, but does not apply to County Land Reutilization Corporations organized under Chapter 1724 of the Ohio Revised Code.

(2) Definitions. As used in this section:

A. "Abandoned" means a structure that is unoccupied as the result of the relinquishment of possession or control by an owner or other person with the right of possession or control of the structure, a mortgagor or the mortgagor's assigns whether or not the mortgagor or mortgagor's assigns have relinquished equity and title. A structure may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of furnishings and personal items; statements of neighbors, delivery agents or similarly situated persons that the property is abandoned.

B. "Code Official" has the same meaning as that set forth in Section 546.02 of the Codified Ordinances of the City of Youngstown, or his or her designee.

C. "Codes" means the Codified Ordinances of the City of Youngstown or those adopted by said Codified Ordinances.

D. "Inspector" means a person employed by or under contract to the City of Youngstown to perform inspections to determine compliance with Codes and to order corrective measures and/or initiate administrative, civil, or criminal proceedings.

E. "Vacant" means a structure that is not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Multi-family residential structures shall be considered vacant when substantially all of the dwelling units are not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Commercial structures shall be considered vacant when all commercial activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant commercial structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaging in commercial activity, or that otherwise qualifies as "Abandoned" under this Section. Industrial structures shall be considered abandoned when all industrial or manufacturing activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant industrial structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaging in industrial or manufacturing activity, or that otherwise qualifies as "Abandoned" under this Section.

In determining whether a structure is vacant, it is also relevant to consider, among other factors, the percentage of the overall square footage of the building or floor not in use to the occupied space; the condition and value of any items in the structure and the presence of rental or for sale signs on the property.

A property that is temporarily unoccupied and is in the process of being renovated under proper and unexpired permits shall not be considered vacant.

A property that is listed for sale with a licensed realtor under a fully executed listing agreement shall not be considered vacant for the first six months of the listing agreement under which the property was first listed for sale. Such property shall be considered vacant for purposes of this Section upon the expiration of the first six month period for which it is first listed for sale or upon a subsequent re-listing with the same or a different licensed realtor. Unoccupied property listed as "For Sale by Owner" shall be considered vacant for purposes of this Section.

F. "Owner" means the registered owner of a property, any person who holds legal or equitable title to the property, is a mortgagee, a vendee-in-possession, assignee of rents, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a property. The Owner of a property in default or for which a foreclosure action is pending or for which a judgment in foreclosure has been issued shall include the mortgagee, the successor in interest to the mortgagee, the lender or servicing company and any agent acting for the mortgagee, its successors, or a lender or servicing company. Under this definition, there may be more than one "Owner" of a property for purposes of this Chapter.

G. "Secure" means a covering shall be placed over all doors and windows which are within fifteen feet of the exterior grade, consisting of one-half inch thick plywood attached to the framing of all such doors and windows by wood screws of a minimum length of one and one-half inches, placed twelve inches on center. Such plywood shall be painted with a minimum of two coats of oil-based exterior paint. In order to be considered Secure, a property must also be in compliance with all requirements of the Youngstown Property Maintenance Code.

**(3) Owner required to act; enforcement authority.**

A. The owner of any structure that has become vacant as defined in Section 546.14(a)(2)E. shall, within thirty (30) days after the structure first becomes vacant, within thirty (30) days of receiving notice that a structure is vacant, or within thirty (30) days after the effective date of this Chapter, whichever is later, file a registration statement for each such structure with the Code Official or his or her designee on forms provided for such purposes. Any Owner of a property which files a foreclosure action against said property, or for which a foreclosure action is pending, or a judgment of foreclosure has been issued shall, in addition to all other requirements of this Section, provide a cash bond acceptable to the Deputy Director of Public Works or his designee, in the sum of not less than Ten Thousand Dollars (\$10,000.00), to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, repairing, marking and/or making such building safe by any legal means including, but not limited to, demolition. A portion of said bond in an amount to be determined by the Deputy Director of Public Works shall be retained by the City as an administrative fee to fund an account for expenses incurred in inspecting, securing, repairing and/or marking said building and other buildings



which are involved in the foreclosure process or vacant.

The registration statement shall remain valid for one year from the date of registration. The registering party shall be required to annually renew the registration as long as the structure remains vacant and shall pay an annual registration fee of One Hundred Dollars (\$100.00) for each residential structure and Two Hundred and Fifty Dollars (\$250.00) for each commercial or industrial structure; provided, however, that all religious, educational, benevolent or charitable associations, all governmental agencies shall be exempt from the payment of the annual registration fee. The registering party shall not be entitled to a refund of all or any part of the registration fee should the structure no longer be deemed vacant during the annual registration period.

The owner shall notify the Code Official or his or her designee within twenty (20) days of any change in the registration information by filing an amended registration statement on a form provided for such purposes. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner of the structure. An owner shall be liable under this Section for failing to register a vacant structure, paying an appropriate annual registration fee, or timely updating any change in registration.

B. In addition to other information required by the Code Official, the registration statement shall include the name, street address and telephone number of a natural person twenty-one years of age or older, designated by the owner as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner in connection with the enforcement of this Chapter. This person must maintain an office in Mahoning County, Ohio, or must actually reside within Mahoning County, Ohio. An owner who is a natural person and who meets the requirements of this subsection as to location of residence or office may designate him- or herself as agent.

By designating an authorized agent under the provisions of this subsection the owner is consenting to receive any and all notices of code violations concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered structure by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this subsection shall be deemed to consent to the

continuation of the agent's designation for the purposes of this subsection until the owner notifies the Code Official or his or her designee in writing of a change of authorized agent or until the owner files a new annual registration statement. An owner shall be liable under this Section for failing to register an authorized agent.

C. The owner of any vacant structure shall, within fifteen (15) days of registering a vacant structure, cause a physical inspection of the structure to be made and Secure the structure in accordance with this Chapter. Photographs shall be taken of the property that accurately portrays the condition of the structure. Photographs shall be dated and preserved. An owner shall be liable under this Section for failing to inspect the property or structure or for failing to maintain the inspection photographs as required by this Section.

D. Any owner who fails to register a vacant structure under the provisions of this subsection shall further be deemed to consent to receive, by posting at the structure, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the structure and premises.

E. The Code Official may issue rules and regulations for the administration of this Section. These rules may designate board-up materials and methods which must be used when securing a structure beyond the standards provided so that the boarding is reasonably incapable of being removed by trespassers or others acting without the owner's consent.

**(4) Registration required and penalty.**

A. The owner of any vacant structure shall file a registration statement for each such structure with the Code Official or his or her designee on forms provided for such purposes. Any such registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the structure.

B. The owner of any vacant structure who fails to file a registration statement for each such structure within the timeframes established by this Chapter or who fails to update a change in registration information within the timeframes established by this Chapter shall be subject to a Fifty Dollar (\$50.00) per day administrative penalty with a maximum penalty of One Thousand dollars (\$1,000).

C. Notwithstanding any other language in this Chapter and unless otherwise specified, any person who violates any provision of this section or of the rules and regulations issued hereunder and fails to maintain the property according to the Codes shall be guilty of a first degree misdemeanor and, upon conviction, shall be fined



not less than Two Hundred Dollars (\$200.00) for each offense. Every day that a violation continues shall constitute a separate and distinct offense.

(b) Violations.

(1) Liability.

A. Unless otherwise specifically provided, the owner, the owner's agent for the purpose of managing, controlling or collecting rents, and any other person managing or controlling a structure or premises in any part of which there is a violation of the provisions of this code, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling, or acting as agent in regard to said structure or premises and is subject to injunctions, abatement orders or other remedial orders.

B. The liabilities and obligations hereunder imposed on an owner shall attach to a trustee under a land trust holding title to such building, structure or premises without the right of possession, management or control, unless said trustee in a proceeding under said provisions of this code discloses in a verified pleading or in an affidavit filed with the court, the name and last known address of each person who was a beneficiary of the trust at the time of the alleged violation and of each person, if any, who was then acting as agent for the purpose of managing, controlling or collecting rents, as the same may appear on the records of the trust.

C. The liabilities and obligations imposed on an owner shall attach to any financial institution, mortgage company, or any other person or entity with or without an interest in the structure or premises who knowingly takes any action in any judicial or administrative proceeding that is intended to delay issuance or enforcement of any remedy for any violation of the Codes, provided that with respect to fines such person shall be liable only for fines which accrue on or after the date of such action and further provided that no liability shall be imposed under this section for any action taken in any proceeding, including a proceeding to foreclose on a lien, that does not delay or prevent the prosecution of any action brought by the City to enforce the adopted Codes.

D. In the event the City of Youngstown, due to lack of response of an owner or agent, is required to take action, through its own efforts or via a contract for such services, to abate a nuisance at a vacant property the owner will be billed for the cost of the abatement to include all labor and materials needed to correct the violation. Nuisance abatements shall include, but are not be limited to, elimination of hazardous conditions, cutting of weeds and overgrowth, securing and/or boarding of a structure, trash

cleanup and disposal and demolition.

(2) Appeals. Appeals shall be processed in accordance with Section 546.09 of the Codified Ordinances of the City of Youngstown.

(3) Assignment of registration fees, penalties, and fines. Registration fees, penalties, and fines associated with and collected on behalf of vacant property registration shall be deposited in a specific Finance Department code in the annual budget of the City of Youngstown and shall only be expended for the specific purposes set forth in this Chapter.

(4) Severability. If any section, subsection, clauses, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

(5) Savings clause. The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this ordinance, as amended.

(6) Publication. The Clerk for the City of Youngstown shall cause this section to be published in the manner required by law.

(7) Effective date. This section shall take full force and effect upon publication.

(8) Appropriation of fees collected. All fees collected shall be paid into the treasury of the City and shall in turn be certified by the Finance Director and appropriated by City Council for the enforcement of this section.

#### 546.15 SECURING VACANT STRUCTURES

(a) Owners of vacant residential and non-residential structures, which have been deemed by the Code Official to be detrimental to the health and safety of persons in or about such structures, shall comply with the orders of the Code Official or his/her designee, at all times, and properly secure the property in order to prevent entrance to such vacant structure by trespassers.

(b) The term "secure" as used in this section means a covering shall be placed over all doors and windows, consisting of one-half inch thick plywood attached to the framing of all such doors and windows by wood screws of a minimum length of one and one-half inches, placed twelve inches on center. Such plywood shall be painted with a minimum two coats of exterior paint, and shall be of a color that generally matches the structure.

**546.98 RECOVERY OF COSTS**

(a) As used in this Chapter, "total cost" means any cost incurred by the City of Youngstown due to labor, materials, equipment and compliance with local, state or federal laws, including, but not limited to laborers wages, costs of labor, cost of materials and equipment, costs of notice and publication, and abatement costs.

(b) The City of Youngstown may collect the total cost of removing, repairing, or securing insecure, unsafe, structurally defective, abandoned, deserted, or open and vacant buildings or other structures, of making emergency corrections of hazardous conditions, or of abating any nuisance. At any time after such costs are incurred, subject to limitations as provided by law, the City of Youngstown shall send an invoice to the property owner at his or her last known address, via regular U.S. mail. If the property owner fails to pay the invoice within 30 days of the date of the invoice, then the City of Youngstown or a duly retained agent or attorney at law may collect the total cost by any of the following methods:

(1) The City of Youngstown or a duly retained agent or attorney at law may certify the total costs, together with a proper description of the lands, to the County Auditor, who shall place the costs upon the tax list and duplicate. The costs are a lien upon such lands from and after the date the costs were incurred. The costs shall be collected as other taxes and returned to the City of Youngstown. The placement of the costs on the tax list and duplicate relates back to, and is effective in priority, as of the date the costs were incurred, provided that the City of Youngstown or its duly retained agent or attorney at law certifies the total costs within one year from the date the costs were incurred. Such certification shall not, however, preclude other methods of recovery of such costs as may be authorized generally by law; and/or

(2) The City of Youngstown or a duly retained agent or attorney at law may commence a civil action to recover the total costs from the owner.

(c) This section applies to any action taken by the City of Youngstown pursuant to sections 715.26 and 715.261 of the Ohio Revised Code, Section 3, Article XVIII of the Ohio Constitution, or Chapter 546 of the Codified Ordinances of the City of Youngstown.

**SECTION 3**

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity to **repeal Chapter 546, Property Maintenance Code of the Codified Ordinances of the City of Youngstown in its entirety, and further to enact new Chapter 546, Property Maintenance Code**, as above described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

MAYOR JOHN A. McNALLY

22

  
DEPARTMENT OF LAW

AN ORDINANCE

AMENDING THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN

**REPEALING IN ITS ENTIRETY, CHAPTER 1309, DEMOLITION OF STRUCTURES, OF THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN, WHICH IS MORE FULLY DEFINED HEREIN; AND**

**FURTHER, ENACTING A NEW CHAPTER 1309, DEMOLITION OF STRUCTURES TO REPLACE THIS SECTION, WHICH IS MORE FULLY DEFINED HEREIN; AND**

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

\* \* \*

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO:

SECTION 1

That **Chapter 1309, Demolition of Structures** of the Codified Ordinances of the City of Youngstown, is hereby repealed in its entirety.

SECTION 2

That **Chapter 1309, Demolition of Structures** of the Codified Ordinances of the City of Youngstown, is hereby enacted to read as follows:

**1309.01 SCHEDULED TIMES FOR DEMOLITION WORK.**

Anyone who does demolition work within the City, shall only perform demolition work between the hours of 8:00 a.m. and 5:00 p.m. The Code Official or his/her designee may approve exceptions to these specified times, upon written request from the contractor.

**1309.02 DEMOLITION AND REMOVAL PROCEDURES.**

In addition to the Section 8 Supplemental Specifications required of each contractor performing demolition work in the City, each contractor shall adhere to the following requirements in performing such demolition work.

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(a) The contractor must obtain a valid 30 day permit prior to commencing the demolition work, and if requested, display it when performing the demolition work. Extensions may be granted by the Deputy Director of Public Works.

(b) Contractors must apply for Refuse Hauler permits pursuant to Chapter 737 and comply with all hauling regulations therein.

(c) Contractors must hose down the work site during the operations by connecting to City hydrants adjacent to the work site. This is for dust control measures. Contractors will pay the City Water Department a Ten-dollar (\$10.00) user fee per single residential structure being demolished or Twenty dollars (\$20.00) per commercial structure, if larger than a duplex, unless the contractor provides his own water through portable means.

(d) It shall be illegal to dump debris from any site into basements or to dispose of debris on any site other than at an approved landfill or at a construction and demolition landfill. However, bricks/masonry may be buried on site.

(e) Contractors shall remove all garages, sheds and other out-buildings along with shrubs, bushes, walls, fences and foliage from property, along with structures, and all disposable material must be removed from the site.

(f) When a contractor applies for payment for demolition work performed, all landfill manifests relating to the disposal of demolition debris and asbestos-containing materials must be supplied in order to secure payment.

(g) Contractors must protect the area around the site during the demolition process to prevent debris from falling on active sidewalks and streets (not blocked off). Sidewalks, directly adjacent to the site, shall be properly closed and barricaded throughout the demolition project. Street traffic lanes may be closed as needed only in conjunction with the City Traffic Coordinator's Office.

(h) Contractors shall reasonably grade lots. They shall present a neat, well drained appearance and shall prevent water from draining unnecessarily onto adjacent properties or collecting on the site.

(i) Contractors shall not leave mud or any mess on streets or sidewalks while equipment is being loaded or unloaded. See also Section 339.08.

(j) All demolition work, once commenced, must be completed within a reasonable time, seventy-two hours for residential structures and, once started, commercial demolition work must be continued daily until finished (excluding holidays, Sundays and inclement weather days).



(k) Any damage to City property such as sidewalks, curbs, catch basins, fire hydrants, etc., will be the responsibility of the contractor.

### **1309.03 DEMOLITION BOND**

(a) Adoption; Purpose. The purpose of this Chapter is to establish a demolition bond program to ensure that the removal of homes, buildings and other structures, and the restoration of the site is completed as planned in a satisfactory manner.

Nothing in this Chapter shall be construed to waive, relieve or otherwise excuse a contractor from compliance with all applicable codes, ordinances, statutes or laws. Nothing in this Chapter shall be construed to prevent the enforcement of the other provisions of the Codified Ordinances of the City of Youngstown or the Ohio Revised Code and nothing in this Chapter shall be construed to relieve a contractor from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City of Youngstown or State of Ohio.

(1) Applicability. This Chapter shall be applicable to all residential, commercial, and industrial structures located within the City of Youngstown.

(2) Bond Requirement. Upon applying for a demolition permit pursuant to Section 1309.02(a) of the Codified Ordinances of the City of Youngstown, every person, firm or corporation shall be required to deliver to the Deputy Director of Public Works, or his designee, a cash or surety bond in the amount of One Thousand Five Hundred Dollars (\$1,500) for residential structures, and Seven Dollars per square foot (\$7/sq. ft), but no less than Seven Thousand Dollars (\$7,000) for all commercial and industrial structures. Square footage shall be determined by the Mahoning County Auditor's records, or if no such record exists, by the Deputy Director of Public Works, who shall base his determination on field measurements and engineering judgment. Said bond, shall by its terms, be forfeited in the case that such building is not demolished according to the plans, specifications and requirements outlined in Section 1309.02 of the Codified Ordinances of the City of Youngstown, or upon expiration of the permit. Upon forfeiture, the City is permitted to use the bond to complete the demolition work.

(3) Release. Upon notification from the contractor that the demolition work has been completed, and provided that the Deputy Director of Public Works, or his designee, determines that the contractor has complied with all conditions applicable to the bond, the bond shall be refunded/returned to the permit applicant.

#### 1309.04 DEMOLITION AUTHORITY

(a) In the interest of the health, safety and welfare of the citizens, and the betterment of the City, the City has the authority to order and/or perform or contract for the provision of emergency and non-emergency demolitions.

(b) Authority. The Code Official has the authority to order non-emergency demolitions pursuant to 546.07. The Fire Chief has the authority to order emergency demolitions pursuant to section 1525.01.

(c) Notice. Emergency demolitions shall require no prior notice to the property owner. Non-emergency demolitions shall be ordered after a structure is condemned pursuant to 546.07, and a Notice of Demolition is issued.

#### 1309.99 PENALTY.

(a) Whoever violates any provision of Section 1309.01 is guilty of a minor misdemeanor. When any person is found guilty of a subsequent offense, such person is guilty of a misdemeanor of the fourth degree. Such fine is mandatory and shall not be suspended or remitted when found guilty of a third or subsequent offense.

(b) Whoever violates any provision of Section 1309.02 shall be guilty of an unclassified misdemeanor, punishable by up to six months incarceration or a fine of up to five hundred dollars (\$500.00) or both.

### SECTION 3

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity **to repeal Chapter 1309, Demolition of Structures, of the Codified Ordinances of the City of Youngstown in its entirety, and further to enact new Chapter 1309, Demolition of Structures, of The Codified Ordinances of the City of Youngstown**, as above described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

MAYOR JOHN A. McNALLY

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*Marty*  
DEPARTMENT OF LAW

AN ORDINANCE

AMENDING THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN

REPEALING IN ITS ENTIRETY, CHAPTER 1525, UNSAFE BUILDINGS, OF THE CODIFIED ORDINANCES OF THE CITY OF YOUNGSTOWN, WHICH IS MORE FULLY DEFINED HEREIN; AND

FURTHER, ENACTING A NEW CHAPTER 1525, UNSAFE BUILDINGS TO REPLACE THIS SECTION, WHICH IS MORE FULLY DEFINED HEREIN; AND

PROVIDING THAT THIS ORDINANCE SHALL BE AN EMERGENCY MEASURE IF IT RECEIVES THE AFFIRMATIVE VOTE OF SIX OF THE MEMBERS OF COUNCIL; OTHERWISE, IT SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THE EARLIEST PERIOD ALLOWED BY LAW.

\* \* \*

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO:

SECTION 1

That **Chapter 1525, Unsafe Buildings** of the Codified Ordinances of the City of Youngstown, is hereby repealed in its entirety.

SECTION 2

That **Chapter 1525, Unsafe Buildings** of the Codified Ordinances of the City of Youngstown, is hereby enacted to read as follows:

**1525.01 REMOVAL OF UNSAFE STRUCTURE**

(a) Any structure, which in the opinion of the Fire Chief, is unsafe, a nuisance, unsanitary, deficient in adequate exit ways, which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed an unsafe structure.

(b) Any vacant structure, unguarded or open at the door or window, may be deemed a fire hazard and unsafe structure within the meaning of this Code.

(c) The Fire Chief shall cause to be posted at each entrance to an unsafe structure a notice that the structure has been deemed to be unsafe. In the case of an emergency, the Fire Chief may order the demolition of any unsafe structure as defined herein. It shall be unlawful for any person to enter such structure except for the purpose of securing the structure or demolishing of the same.

*B*

(d) Emergency Mitigating Measures. The Fire Chief may employ the necessary labor and materials to perform the required work to render any unsafe structure, temporarily safe.

(e) Costs of Emergency Repairs and Demolition. Costs incurred in carrying out the provisions herein shall be collected pursuant to 1525.06.

**1525.02 INSPECTION; NOTICE; SECURING VACANT STRUCTURE.**

**RESCIND**

**1525.03 CLOSING STREET.**

(a) In the event of an emergency, the Fire Chief, may, when necessary for public safety, temporarily close sidewalks, streets, buildings, structures and places adjacent to an unsafe structure, and prohibit the same from being used.

**1525.04 FAILURE TO COMPLY WITH ORDER.**

- (a) No person shall knowingly fail to comply with an Order of the Fire Chief to vacate an unsafe building or structure.
- (b) If any person, when ordered by the Fire Chief to vacate an unsafe building or structure, should fail to comply with the order, the Chief of Police shall be advised of all the facts in the case, and it shall be the duty of the Chief of Police to vacate such building or structure.

**1525.05 EMERGENCY WORK.**

**RESCIND.**

**1525.06 RECOVERY OF COSTS.**

(A) As used in this Chapter, "total cost" means any cost incurred by the City of Youngstown due to labor, materials, equipment and compliance with local, state or federal laws, including, but not limited to laborers wages, costs of labor, cost of materials and equipment, costs of notice and publication, and abatement costs.

(B) The City of Youngstown may collect the total cost of removing, repairing, or securing insecure, unsafe, structurally defective, abandoned, deserted, or open and vacant buildings or other structures, of making emergency corrections of hazardous conditions, or of abating any

nuisance. At any time after such costs are incurred, subject to limitations as provided by law, the City of Youngstown shall send an invoice to the property owner at his or her last known address, via regular U.S. mail. If the property owner fails to pay the invoice within 30 days of the date of the invoice, then the City of Youngstown or a duly retained agent or attorney at law may collect the total cost by any of the following methods:

(1) The City of Youngstown or a duly retained agent or attorney at law may certify the total costs, together with a proper description of the lands, to the County Auditor, who shall place the costs upon the tax list and duplicate. The costs are a lien upon such lands from and after the date the costs were incurred. The costs shall be collected as other taxes and returned to the City of Youngstown. The placement of the costs on the tax list and duplicate relates back to, and is effective in priority, as of the date the costs were incurred, provided that the City of Youngstown or its duly retained agent or attorney at law certifies the total costs within one year from the date the costs were incurred. Such certification shall not, however, preclude other methods of recovery of such costs as may be authorized generally by law; and/or

(2) The City of Youngstown or a duly retained agent or attorney at law may commence a civil action to recover the total costs from the owner.

(C) This section applies to any action taken by the City of Youngstown pursuant to sections 715.26 and 715.261 of the Ohio Revised Code, Section 3, Article XVIII of the Ohio Constitution, or Chapter 1525 of the Codified Ordinances of the City of Youngstown.

#### **1525.07 PERSONAL LIABILITY DUE TO ENFORCEMENT.**

Any officer or employee charged with the enforcement of this chapter or provisions of the Building Code, acting for the City in the discharge of his duties, shall not thereby render himself liable personally, and he is relieved from all personal liability for any damage that may accrue to persons or property as a result of any action taken in pursuance of the expressed provisions of this chapter and/or this Building Code or in instances where discretionary power is used in the discharge of his duties. Any suit brought against any officer or employee because of such act



performed by him in the enforcement of any provision of this chapter or Building Code shall be defended by the Department of Law until the final termination of the proceedings.

**1525.08 NOTICE TO OWNER OR TO PERSON RESPONSIBLE.**

**RESCIND.**

**1525.09 SERVICE ON OCCUPANT.**

**RESCIND.**

**1525.10 TRANSFER OF OWNERSHIP.**

**RESCIND.**

**1525.99 PENALTY.**

Whoever violates any provision of this chapter or fails to comply with any order or notice issued hereunder is guilty of a misdemeanor of the first degree. Each day that a violation continues after notice has been served shall constitute a separate offense.

**SECTION 3**

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity to **repeal Chapter 1525, Unsafe Buildings, of the Codified Ordinances of the City of Youngstown in its entirety, and further to enact new Chapter 1525, Unsafe Buildings,** as above described; and provided it receives the affirmative vote of six of the members elected to the legislative authority, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_

PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR