

PROPERTY MAINTENANCE CODE

Sec. 1. Title. These regulations shall be known as the Property Maintenance Code of the City of Negaunee, hereinafter referred to as the “this code.”

Sec. 2. Findings and Determination of Necessity. The Negaunee City Council (the “Council”) finds and concludes there are non-residential buildings in the City of Negaunee (the “City”) which are poorly maintained and neglected. These buildings adversely affect citizens who own or occupy nearby buildings and dwellings by lowering property values and rental values. These buildings also pose health and safety concerns, as many of these poorly maintained and neglected buildings have become so dilapidated that occupancy is no longer economically feasible, and this increases the incidence of vandalism and fire. The City Commission finds that the elimination and prevention of these conditions is necessary and is in the best interest of the City and its citizens.

Sec. 3. Purpose. The purpose of this code is to maintain, preserve and improve the stock of non-residential buildings in the City. To accomplish this, the following minimum standards for the exterior maintenance of all non-residential buildings are set forth herein. It is the intention of the City Commission to exercise its full powers to protect the public health, safety and welfare, whether the powers so exercised are derived from the Constitution, State law or the City Charter.

Sec. 4. Applicability. The provisions of this code shall apply to any person or entity owning, occupying, managing and/or controlling any non-residential property in the City as identified by this code.

Sec. 5. 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 that is dangerous, unsafe or insanitary.

Sec. 6. Definitions and Interpretations.

All words and phrases used in this code shall be given their ordinary and common meaning unless defined herein, and all words and phrases, defined or not, shall be interpreted so as to further the purpose of eliminating or preventing the conditions set forth in Section 1.101.

Unless the context clearly indicates otherwise, when words are used in this Chapter, the following rules of construction shall apply:

(1) The singular includes and shall apply to the plural, and the plural applies to and includes the singular.

(2) The masculine gender shall include the feminine and neuter, and the feminine and neuter shall include the masculine.

(3) Where the text uses the negative of a defined word, the negative of the definition shall be applied.

(4) The definition of a verb or a noun shall be used in an appropriate fashion where the adverbial or adjectival form of the word is used.

The following words and terms shall mean:

ABANDON shall mean the failure to continue the exercise of care, custody and control of property owned by a person, or that meets at two (2) or more of the following categories:

- A. Is open to entry;
- B. Is fire damaged to an extent which prohibits safe occupancy;
- C. Is the site of loitering or vagrancy;
- D. Has criminal activity on the premises;
- E. Demonstrates a lack of property maintenance and upkeep as evidenced by one (1) or more violations of this Code;
- F. Is under notice for being in violation of City ordinances;
- G. Is boarded for at least thirty (30) days;
- H. Has taxes in arrears for a period of time exceeding three hundred sixty-five (365) days;
- I. Is under condemnation notice or legal order to vacate;
- J. Is structurally unsound;
- K. Is a potential hazard or danger to persons.

ABANDONED VEHICLES means any vehicle left for more than 72 hours on any street that is unlicensed.

SALVAGE, JUNK or SCRAP VEHICLE means any vehicle, camper or ORV partially disassembled, missing doors, windows, wheels and/or tires and other parts.

UNLICENSED VEHICLE means any vehicle, camper, or ORV that does not maintain current license plate and tags as issued by the Michigan Secretary of State or other appropriate licensing agency or bureau.

APPROVED means acceptable to the Code Official or other designee of the City Manager or other designee.

BUILDING means any structure upon a property, presently or formerly used or intended to be used in whole or in part for the purpose of commerce, trade, manufacture, business, government, worship, education, office, medical, storage or any other purpose.

CAMPER means a class or type of vehicle or trailer that people can live in or sleep in when they are traveling or camping.

CODE OFFICIAL OR OTHER DESIGNEE OF THE CITY MANAGER means the official who is charged with the administration and enforcement of this code, or any duly authorized representative. The Code Official or other designee of the City Manager may be the Chief of Police and/or the Building Inspector, the Zoning Administrator, or any duly authorized representative of the City Manager or Chief of Police.

CONDEMN means to adjudge unfit for occupancy.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS means the costs shall include the actual costs of the demolition or repair of the structure less revenue obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a Code Official or other designee of the City Manager, or designee of the City Manager.

DETERIORATION means to weaken, disintegrate, corrode, rust or decay and lose effectiveness.

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

EMERGENCY means a condition which is a violation of this code and which constitutes an imminent danger calling for immediate action in order to avoid death, injury or illness to a human or the destruction or severe damaging of real or personal property.

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

GARBAGE means any spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition, including trash to which such material has adhered.

HAZARDOUS means a condition which is a violation of this code and which has determined to be likely to result in the death, injury or illness of a human or in severe damage to real or personal property.

HISTORIC BUILDING means any building or structure that is one or more of the following: (a) Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places. (b) Designated as historic under an applicable state or local law. (c) Certified as a contributing resource within a National Register or state or locally designated historic district.

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

INFESTATION means the presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.

INOPERABLE MOTOR VEHICLE means any vehicle, camper or ORV which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

JUNK means an accumulation of garbage, scrap lumber, wood, plastic, metal, old furniture, mattresses, appliances, building materials, equipment, inoperable motor vehicles or vehicle parts that are unsightly and/or promote infestation, that are new, old or discarded articles that are considered useless or of little value.

NEGLECT means the lack of proper maintenance for a building or structure.

NON-RESIDENTIAL BUILDING means any rental unit, commercial, industrial, or any property occupied by someone other than the owner.

NUISANCE means all property conditions that are prohibited by this code.

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

OCCUPANT means any individual living or sleeping in a building, or having possession of a space within a building.

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

PERSON means an individual, corporation, partnership or any other group acting as a unit.

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

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

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

ORV means any class of motor-driven recreation vehicle designed for off-road use and capable of cross-country travel without benefit of road or trail.

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

STRUCTURE means that which is built or constructed or a portion thereof.

TRASH means waste materials and items which are not in good repair or are discarded and which are of little or no value, including, but not limited to plaster, paper, wrappings, plant cuttings, household furnishings, building materials, packing and clothing, appliances, equipment, machinery or parts thereof.

VACANT means any non-residential building that has not been inhabited for more than 90 days.

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

Sec. 7. Administration and Enforcement.

Sec. 7.1. Inspections Authorized. The standards of this code are to be enforced by inspections of buildings, accessory structures and any property subject to any of the terms of this code.

Sec. 7.2. Applicability. The provisions of this code shall apply to all non-residential buildings, structures and properties located in the City of Negaunee.

Sec. 7.3. Enforcement Process. The City may, but shall not be required to, bring a violation of the standards established in this code to the attention of the property owner or other responsible person by issuing a Notice of Violation or by any other lawful means.

Sec. 7.4. Violations. It shall be unlawful for a person, firm, corporation, or entity to be in conflict with or in violation of any of the provisions of this code.

Sec. 7.5. Notice. The Negaunee Police, Code Official or other designee of the City Manager, or other duly appointed representative shall serve a written notice of violation, which will include identification of the property, a statement of the violation and why the notice is being issued, an order of correction allowing time to make the repairs and improvements consistent with the section 7.7 of this code, the right to appeal the violation, and a statement indicating that the City may abate violation, charge such costs to the property owner, and/or file a lien against the property. The notice shall be served by personal delivery to the owner, or sent first-class mail to the last known address of the owner. A copy of the notice shall also be posted in a conspicuous place in or about the property.

Sec. 7.6. Establishment of Diversionary Team. In furtherance of the efforts to abate nuisances and to mitigate deteriorating, damages and/or substandard properties, or properties that present housing code or building code violations, or health and sanitary concerns, the City Council hereby determines it is in the best interest of the City that a Diversionary Team ("DT") be established.

Sec. 7.61 Membership, Policies, Meetings. The DT shall consist of five (5) members appointed by the Mayor, with the approval of the City Council. If available, the make-up of membership shall include two (2) citizens at large, two (2) citizens who owns or operates a business, and one (1) citizen with building knowledge or expertise, and The City manager shall determine the policies of the DT, and determine times, dates, and locations of all meetings.

Sec. 7.62. Function. The function of the DT is to gather relevant information, share information among public agencies, respond to citizen complaints, identify

nuisance issues, code violations, and other concerns within the city to ensure the health and safety of the public is maintained, and when appropriate, to work collaboratively with persons and entities to resolve violations arising out of this code in *lieu* of citation/prosecution of the violation(s). The DT may also make recommendations for resolution of issues that cannot be resolved through the diversionary process adopted by the DT.

Sec. 7.63. Violation Complaints. The DT shall receive complaints submitted by city staff, citizens or other public agencies, conduct appropriate investigations, refer matters to the Code Official or other designee of the City Manager or other designee of the City Manager for inspection, meet and confer with property owners, tenants or other citizens and representatives from other agencies to develop solutions to a complaint; follow-up on inspections; and agree to resolutions.

Sec. 7.64. Referral. In the event that DT is unable to resolve complaints, the matter shall be referred to the Code Official or other designee of the City Manager for enforcement based upon the City Code, Property Maintenance Code, and state statute or law.

Sec. 7.7. Time to Correct Violations. Any Notice of Violation shall provide a specified time for achieving compliance in relation to the seriousness of the violation. If a Notice of Violation is issued, the following time limits shall be used:

- (1) Not more than twenty-four (24) hours for an emergency.
- (2) Not more than ten (10) days for correcting hazardous conditions.
- (3) Not more than one hundred twenty (120) days for all other violations, except as stated otherwise below.
- (4) The Code Official or other designee of the City Manager may approve an extension of time to correct a violation provided in a written notice when there are documented extenuating circumstances beyond the control of the responsible person and/or where the responsible person has made a substantial documented effort to correct violations, and/or where the responsible person has agreed to enter into a diversionary program through the DT.
- (5) No other extensions or further extensions shall be permitted except by order of the DT for good cause shown. The DT shall be permitted to grant additional extensions when it can be demonstrated to the that the time allowed is unreasonable, circumstances have prevented a good faith effort to comply, or substantial work has been completed and additional time is warranted to complete the necessary repairs.

Sec. 7.8. Emergency Orders. If the Code Official or other designee of the City Manager, or designee of the City Manager determines that a condition exists or is likely to exist which is an emergency, the City shall immediately attempt to verbally inform the

responsible person and all occupants of the building of the nature of the condition. The City shall immediately attempt to give Verbal Notice to the responsible person to correct the condition. Such an order shall be effective immediately. A written Notice of Violation called for by this code shall be prepared and mailed and/or personally served to the responsible person as soon as practicable after the Verbal Notice herein referred to has been attempted. If notice is attempted to be served in good faith but cannot be completed prior to having to take action necessary to abate an emergency condition, such notice shall be posted upon the subject property in a prominent location. Failure to comply with an emergency notice or order is a violation of this code.

Sec. 7.9. Abatement of Emergency. If the responsible person cannot be contacted or refuses or fails to correct an emergency condition within the time ordered, the City Manager or a representative of the City Manager may authorize corrective actions to abate the emergency. The cost of abatement shall be billed to the owner as a personal debt which, if unpaid, may be assessed as a lien upon the property involved, may also be placed on the tax roll for the property, and the City may seek full reimbursement of the abatement costs through a nuisance or other appropriate action in a court of competent jurisdiction.

Sec. 7.10. Authorization to Condemn. It shall be unlawful for any person to occupy or any person other than the owner to enter any building or accessory building the City has condemned as unfit for human occupancy or entry for any of the following reasons or conditions:

- (1) An emergency condition is present.
- (2) A hazardous condition cited in a Notice of Violation has not been corrected.
- (3) A Notice of Violation, which contains an order to Repair or Demolish has been issued to the owner.

Sec. 7.11. Emergency Entry Authorized. When an emergency is believed to exist within a property, building or accessory building subject to this code, the City shall have the right to enter immediately and at any time without a warrant or without requesting permission. Entry must be for the sole purpose of public safety and determining that an emergency exists or to abate an emergency condition known to exist.

Sec. 7.12. Complainant Information. Prior to recording a complaint alleging a violation of the provision of this code, the City may record the name, address and telephone number of the complainant, but only if such information is provided.

Sec. 7.13. Change in Ownership. An owner or responsible person of a property who has received a notice regarding a violation of a provision of this code shall notify the City by writing the Code Official or other designee of the City Manager within ten (10) days of transferring ownership of the cited property to another person or entity. The notice to the City shall include the name, address and telephone number of the new

owner and the effective date of the transfer of ownership. The City shall issue a new Notice of Violation to any new person or entity assuming the ownership or the status of responsible person for any property which has been cited in a Notice of Violation. An owner or responsible person who has failed to comply with a Notice of Violation shall remain responsible for any violations cited in a Notice of Violation and shall not be relieved of the responsibility of having violated any provision of this code by transferring ownership or responsible person status.

Sec. 7.14. Removal of Posted Sign or Notices. No person shall remove, damage, deface, interfere with, move or conceal any Notice or sign posted in accordance with the provision of this code without first obtaining permission of the City. A one-hundred dollar (\$100) will be issued for each posted sign or notice improperly removed, damaged, defaced, interfered with, moved, or concealed.

Sec. 8. PROPERTY MAINTENANCE STANDARDS

Sec. 8.1. Property Maintenance Required. All property, regulated by this code, whether occupied or unoccupied and all property, including vacant property and/or formerly occupied property, shall meet or exceed the standards set forth herein.

Sec. 8.2. Structural Integrity. Basic structural elements, foundations, foundation walls and supporting columns shall be in good repair.

Sec. 8.3. Exterior Surfaces. All exterior finish surfaces shall be weathertight and in good repair and shall not have holes, cracks or deterioration which allow water or vermin to reach any basic structural element or to enter the interior of any building.

Sec. 8.4. Protection of Exterior Surfaces. All exterior surfaces of a building or structure made of iron, wood, steel, masonry or other materials which may deteriorate from exposure to weather shall be protected from the weather by a properly applied weather-resistant paint, stain or other waterproof finish. Primers shall be properly covered with a water-resistant finish coating.

Sec. 8.5. Exterior Windows and Doors. All exterior windows and doors shall be weather tight and in good repair, intact and functioning as originally intended and designed, or shall be secured against weather by boarding which is painted a color matching that of the adjacent exterior siding, but in no instance shall boarding of windows or doors be permitted for more than 30 days. Boarding shall be done in a manner and with materials as specified in this Code. All exterior openings suitable for human or animal entry shall be secured by use of exterior grade plywood, of at least three-eighths (3/8) inch thickness, cut to the size of the opening and secured by use of Phillips headed two (2) inches long screws on all first story or ground accessible points of entry or by use of 16d common nails which are permitted only on entry points being secured above the first story or where not accessible from ground level. Boards shall be placed over all points of entry.

Sec. 8.6. Exterior Attachments. Exterior attachments to basic structural elements, including but not limited to gutters, downspouts, screening, vents, antennae, tanks, awnings, canopies, marquees, signs, lighting fixtures, handrails, guardrails and utility connections shall be in good repair.

Sec. 8.7. Accessory Improvements. All accessory improvements located on a property, including but not limited to walkways, driveways, parking areas, storm drains, parking bumpers, steps, handrails, guardrails, signs, lighting fixtures, poles, fences, walls, tanks, antennae and all other freestanding or made structures shall be in good repair.

Sec. 8.8. Outdoor Storage. Outdoor storage of materials of value shall be stored in a safe and sanitary manner, shall not be scattered about and shall not have openings nor be stacked in a manner which may provide harborage for vermin, garbage, rubbish or infestation.

Sec. 8.9. Trees and Shrubs. No trees, shrubs or other vegetation shall be allowed to damage a building or block safe vision of a sidewalk, drive or street. No dead tree, trees, or parts thereof shall be permitted on any property regulated by this code.

Sec. 8.10. Health and Sanitation. All exterior areas shall be sanitary and free of trash, rubbish, garbage, junk and hazardous materials.

Sec. 8.11. Pest Elimination. Structures shall be kept free from insect, rodent infestation, and other feral or wild animals.

Sec. 8.12. Unlicensed, Abandoned, Junk and Salvage Vehicles. Unlicensed, abandoned, junk and salvage vehicles, campers or ORVs may be stored outside of buildings as detailed herein. Motor vehicles, campers, and ORVs stored outside must be parked or arranged on property in an orderly state and in a manner that allows fire vehicles and safety personnel access to the property without danger to life or equipment. Vehicles must be stored and maintained so the area around vehicles remains in compliance with the provisions of the Negaunee City Ordinances, including the height of weeds and grasses. No scrap or junk vehicles may be stored in a way so as to constitute a junkyard where junk as defined in this code. Vehicles that are partially salvaged or missing components such as doors, hoods, windshields or unmaintained wheels and/or tires shall be considered junk vehicles and shall not be allowed to remain on premises for more than thirty (30) days months without extensions.

Sec. 8.123. Exclusions. These provisions shall not apply to any vehicle being repaired or restored as part of a commercial transaction, so long as there is on-going progress concerning the restoration of the vehicle.

Sec. 8.13. Owner Responsibility for Maintenance. The owner of a property shall be responsible for complying with the standards set forth in this code except as otherwise stated in this code.

Sec. 8.14. Good Workmanship. Additions, replacements, repairs or changes made to buildings, accessory buildings, appurtenances, structures, improvements, or facilities regulated by this code shall be made with good workmanlike manner.

Sec. 8.15. Exterior Security Lighting. Any exterior light fixture must be maintained in good repair.

Sec. 8.16. Street Address Visible. Street addresses shall also be provided for any building regulated by this code so as to identify the building from an adjacent public street, consistent with state and local law.

Sec. 8.17. Vacant/Abandon Property Identification. An identification sign in good repair and visible from the street shall be affixed to a vacant or abandoned building regulated by this code. Such sign shall provide the name and phone number of the property owner or other responsible person to be contacted regarding maintenance or an emergency.

Sec. 9. COURT ORDERS, PENALTIES AND FINES AND FEES

Sec. 9.1. Violations Separate. Each violation of any provision of this code may be charged as separate violation of this code. Each violation shall be denominated as a separate count on the complaint or citation, and DT diversionary referral. Upon conviction in a court of law, the defendant shall be sentenced separately on each count.

Sec. 9.2. Penalties and Sentencing. Upon conviction for violation of any provision of this code, the Court shall sentence the defendant to pay a fine not less than fifty dollars (\$50), but not more than up to five hundred dollars (\$500.00). The Court shall, when justice so requires, from requiring a defendant to bring property subject to this code into compliance with the terms herein and to prevent further violations.

Sec. 9.3 Fines. Fines shall reflect the seriousness of each offense as well as the history of the person convicted. Fines shall not be less than the following amounts for each separate offense:

(1) At least one hundred fifty dollars (\$150.00) for each failure to comply with an emergency order or correct a hazardous condition.

(2) At least fifty dollars (\$50.00) for each failure to comply with any other provision of this code or any order or Notice issued in accordance with the provisions of this code.

Sec. 9.4. City Costs. Upon conviction for violation of any provision of this code, the Court shall order the defendant to reimburse the City for all of the costs of enforcement of this code attributable to the violations for which the defendant was convicted, including but not limited to the costs of inspection, prosecution and administration. If

such condition is not imposed, the City may file a civil action against the defendant and may, upon proof of the defendant's conviction, recover all of the costs referred to above.

Sec. 9.5. Fines Doubled. In cases of recurrent violations, which shall be defined as any cited violation not remediated or cured within fifteen days (15) after the initial citation is issued, any applicable fine will be doubled.

Sec. 10. APPEAL

Sec. 10.1. Appeal Authorized. Except as otherwise provided in this code, any person issued a notice by the City in the course of enforcement of the provisions of this code may appeal the decision or interpretation made by the City to the Negaunee Zoning Board of Appeals. All appeals shall be filed, heard and decided in accordance with the provisions of this code.

Sec. 10.2. Time Period for Filing an Appeal.

An appeal must be filed within twenty-one (21) days of the date of any order or notice being appealed. However, if an order requires the correction of a cited violation within a shorter period of time, the appeal must be made within such shorter period.

Sec. 10.3. Effect of Appeal on Correction Time Limits. A responsible person who has been ordered to correct a violation within a specified period of time shall not be held accountable for any time which elapses between the time of filing an appeal and the time a decision is made.

Sec. 10.4. Procedure for Filing an Appeal. Any person wishing to make an appeal must fill a written appeal form setting forth the order or ruling being appealed. The appellant must file the written form with the City at a Clerk's office. The City will send a notice to the appellant regarding the date the appeal will be heard by the Zoning Board of Appeals ("ZBA"). Notice of the hearing date will be by regular mail sent to the address stated on the written appeal form. Any person requesting a written appeal form shall be notified of the standards for ZBA Decisions.

Sec. 10.5. Appeal Fee. An appeal fee established by resolution of the City Council shall be submitted with any Claim of Appeal. The ZBA may also authorize the return of a fee to an appellant if they determine that an error by the City caused an unnecessary appeal to be submitted.

Sec. 10.6. Procedures Prior to Appellate Hearing. Prior to an appeal hearing, the following procedures shall take place:

(1) The City shall forward copies of the Claim of Appeal and a copy of the notice or order being appealed to members of the ZBA.

(2) The Code Official or other designee of the City Manager or designee of City Manager may prepare a presentation of the property subject to appeal. This presentation may include, as elements, the exterior view of the dwelling, from all sides, the exterior view of adjoining properties, specific illustration of the issue(s) of the appeal, and interior illustration as needed to make a determination.

(3) The City shall notify the owner of the premises that is the subject of the appeal.

(4) Failure of the owner or other responsible person to arrange access to any portion of the property where a cited violation is located and which is not clearly visible from a public street or alley shall constitute grounds for denial of an appeal.

Sec. 10.7. Hearings on Appeals. All hearings on appeals shall take place at a regular or special meeting of the ZBA. The City shall have a minimum of fifteen (15) days after a Claim of Appeal is filed to issue the required notices. The appeal shall be heard at the first regularly scheduled meeting of the ZBA following the fifteen-day period for which the hearing is scheduled, provided that a quorum is present. When a quorum is not present, the Chair or other presiding member of the ZBA shall reschedule the meeting, and the appeal shall be heard at the rescheduled meeting. A hearing may be held at a special meeting by a majority vote of the ZBA.

Sec. 10.8. Hearing Procedures. At any hearing of the ZBA arising out of this code, the following procedures shall be followed:

(1) Testimony of the appellant, the City and any witnesses shall be heard. A summary or minutes shall be recorded in a manner determined by the City.

(2) The appellant or authorized agent of the appellant, and the Code Official or designee of the City Manager shall be present.

(3) At least three (3) members of the ZBA shall be present at a hearing and shall constitute a quorum.

(4) Summary minutes shall be prepared to show all motions and actions of the Board.

Sec. 10.9. Decision by the ZBA. After all evidence and testimony has been presented, the ZBA shall affirm, modify or reverse the notice being appealed. Any decision of the ZBA modifying or reversing a notice by the City shall require the concurring vote of three (3) members.

Sec. 10.10. Standards for Appeal Board Decisions. A decision by the ZBA shall include the reasons for the decision in the language of the decision. Any decision not complying with this Section shall be void. Any decision to reverse or modify any order or ruling of the City shall:

(1) Include any necessary special conditions to carry out the intent of the provisions being appealed, and

(2) Determine that the decision is necessary to avoid causing undue hardship to the appellant which is not caused to others to whom the same provision is applied, or

(3) Determine that the order or ruling was an incorrect interpretation of a standard of this code, or

(4) Determine that an alternative proposed solution by an appellant meets the minimum standards for building maintenance as expressed in this code.

Sec. 10.11. Appeals Prohibited. An emergency order shall not be appealed because of imminent danger calling for immediate action. A ruling, decision, opinion or action of the City Attorney cannot be appealed to the ZBA.

Sec. 10.12. Conflicts of Interest. No member of the ZBA shall speak or vote on any appeal in which the member has any direct personal or financial interest nor shall any member participate in any matter where participation is prohibited by the City Charter or State Law.

Sec. 10.13. Summary of Rulings. The ZBA shall report a summary of its findings and rulings to the City Council annually on any appeal arising out of this code. The report shall include a summary of recurrent appeals or recurrent problems, along with resultant recommendations for modifications to this code.

Sec. 10.14. Compliance with Zoning Board of Appeals Decisions. It shall be a violation of this Code for a responsible person to fail to comply with special conditions which are a part of a ZBA decision modifying or reversing an order or ruling of the City.

APPENDIX A: REFERENCED STANDARDS

This appendix lists the standards that are referenced in the various sections of this code. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date, and title and the section or sections of this code that reference the standard.

(A) **ICC** **International Code Council**
500 New Jersey Ave. NW
6th Floor
Washington DC 20001

Standard Reference No.

Title

