



MEETING DATE

June 27, 2016

Subject: Ordinance – Adopting International Property Maintenance Code

AGENDA

Section: Public Hearing

Item #: 3

AGENDA REPORT

Department / Office: Community Development

Requested Action or Motion: After receiving public input, move to adopt upon 2nd reading and public hearing the 2015 International Property Maintenance Code. (This is the final action required for this item.)

Summary Explanation & Background: The proposed Ordinance adopting the 2015 International Property Maintenance Code (IPMC) is the first of two companion ordinances to be introduced. Generally, the City's Codes addressing property maintenance are contained in Section 5-2(b) (1997 editions of standard housing and building code and 1985 Standard Unsafe Building Abatement Code adopted); Chapter 4.5 (nuisances); Articles IV and V of Chapter 5 (housing and swimming pools); and Chapter 7 (health and sanitation, rodents, garbage and trash). The 2015 IPMC contains comprehensive, thorough, and enforceable property maintenance requirements of existing buildings and structures in one document comprised of 7 chapters.

In 1998, the International Code Council (ICC) published the International Property Maintenance Code and has since updated and improved the IPMC a number of times based on ICC's careful review of proposed changes submitted by code enforcement officials, building officials, industry representatives, and other interested parties. IPMC sets forth requirements for basic equipment, light, ventilation, heating, sanitation, and safety. It is concerned about the safe use of existing structures in the interests of the social and economic welfare of the community.

A local government which adopts a model code like the IPMC cannot assume that all provisions of the model code are consistent with its own state's laws and existing codes. Therefore, the City has taken care to make amendments to the IPMC to ensure consistency with the Florida Building Code; the Florida Fire Prevention Code; Chapter 162, *Florida Statutes*, and Chapter 5.3 of the Code of Ordinance regarding code enforcement; Chapter 399, *Florida Statutes* (elevators, escalators, and dumbwaiters); Article VII, Chapter 5 of the Code of Ordinances; Chapter 7 of the Code of Ordinances; and the Standard Unsafe Building Abatement Code. Similarly, the Ordinance proposes to amend various sections of the existing Code to adopt, augment or recognize the IPMC. Section 5-74 regarding operation and maintenance of swimming pools is deleted and has been incorporated into Sec. 303 of the IPMC, which comprehensively addresses maintenance of swimming pools, spas, and hot tubs. Once the terms of the Ordinance are codified if adopted, all provisions regarding property maintenance will be consistent with one another, with most of the property maintenance regulations being contained in the IPMC.

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Fiscal Impact: None

Exhibits: (1) Ordinance – Adopting International Property Maintenance Code; and (2) International Property Maintenance Code

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Commission/Board:

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Department Head

City Manager's Office

Reviewed by City Attorney

Yes N/A

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Section 5-2(b) of the current Code adopts the 1985 edition of the Standard Unsafe Building Abatement Code. (SUBAC). SUBAC is a model code which provides condemnation and demolition remedies and procedures for a building official when such remedies are necessary for unsafe structures and equipment. The companion Ordinance which adopts Chapter 1 of the Florida Building Code (2014) deletes Section 5-2(b) because that Section is reserved only for the 5th Edition of the Building Code, with the SUBAC being adopted by this Ordinance under Article IV of Chapter 5, "Property Maintenance."

This Ordinance adopts the 1985 edition of the SUBAC with amendments to conform to the Florida Building Code, Article VI of Chapter 4.7 (Board of Adjustments and Appeals), and Florida law. Portions of the IPMC contain supplemental sections regarding condemnation and demolition which are not contained in the SUBAC, and the IPMC therefore references the SUBAC.

The Southern Building Code Congress International, Inc., published the SUBAC in 1985 and has not updated it since. City staff and the City Attorney's office reviewed other condemnation/demolition codes to determine if more comprehensive, procedurally updated codes should be adopted. Other codes which were reviewed offered no better regulations or protection for the City than the 1985 SUBAC. Moreover, the SUBAC has been upheld by at least one appellate court. Therefore, it was decided that the 1985 edition of the SUBAC adequately serves the City's needs and has been used by the City in the past when demolition was necessary.

Two minor changes to the version of the IPMC that was reviewed at first are incorporated in the attached version: (1) a change to Section 107.1, citing the proper reference source for enforcement procedures, and (2) a change to Section 108.3, improving the language controlling the determination that a structure is unsafe.

ORDINANCE ____

AN ORDINANCE OF THE CITY OF MAITLAND, FLORIDA, AMENDING SECTIONS OF CHAPTER 4.5 OF THE CODE OF ORDINANCES RELATING TO NUISANCES AND RENAMING CHAPTER 5 OF THE CODE OF ORDINANCES; ADOPTING THE 2015 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, WITH CERTAIN AMENDMENTS THERETO TO CONFORM TO FLORIDA LAW AND THE CITY'S EXISTING CODE OF ORDINANCES; REGULATING AND GOVERNING THE ENFORCEMENT, CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS, AND STRUCTURES TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY, AND FIT FOR OCCUPANCY AND USE; DELETING OBSOLETE PROVISIONS OR PROVISIONS OF THE CODE WHICH ARE INCONSISTENT WITH THE INTERNATIONAL PROPERTY MAINTENANCE CODE; ADOPTING THE 1985 STANDARD UNSAFE BUILDING ABATEMENT CODE WITH AMENDMENTS THERETO; PROVIDING FOR LEGISLATIVE FINDINGS AND CODIFICATION; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City of Maitland actively participates in the enforcement of regulations relevant to safe, sanitary, and habitable property maintenance and structures.

WHEREAS, under its home rule powers, the City of Maitland may regulate and govern property maintenance to ensure the well-being of its citizens, property owners, and occupants.

WHEREAS, the City of Maitland has determined that it is in the best interest of the health, safety, and welfare of the citizens, businesses within the City, and patrons of such businesses, to adopt the 2015 International Property Maintenance Code as published by the International Code Council for the maintenance and control of buildings and structures, with amendments thereto to comply with Chapter 162, Florida Statutes, the Florida Building Code, and the City's Code of Ordinances.

WHEREAS, the City of Maitland finds that the 1985 Standard Unsafe Building Abatement Code (SUBAC), republished in 1994, provides adequate procedural safeguards and direction to the City when determining whether structures should be condemned or demolished, and the use of the 1985 SUBAC has been upheld by the Fifth District Court of Appeal in *Dragomirecky v. Town of Ponce Inlet*, 882 So. 2d 495 (Fla. 5th DCA 2004) (Sec. 18-211, Ponce Inlet Code of Ordinances).

NOTE: Underlined words constitute additions to the City of Maitland Code of Ordinances, ~~strikethrough~~ constitutes deletions from the original Code of Ordinances, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Maitland, Florida, as follows:

SECTION 1. Legislative Findings. The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

SECTION 2. Sections 4.5-3 and 4.5-4 of Chapter 4-5, "Nuisance" are hereby amended as follows:

Sec. 4.5-3. - Enumeration of nuisances.

It is hereby declared to be a nuisance, the enumerations of which are merely indications of the nature and type of acts, occurrences and conditions, and shall not be deemed to be exclusive:

- (1) For any person to cause or allow any animal carcass or any filth or substance to be collected, deposited, or to remain in any place to the detriment of public health;
- (2) For any person to throw, deposit or discharge into or suffer to be collected, deposited or remain in any street, alley or other public place, or in any house, building, premises, sewer, or gutter, any filth, garbage, noxious substance, or any waste paper, rags, or any rubbish of any kind;
- (3) For any person to allow, suffer or permit any lot, premises, common or place of any kind whatsoever to become neglected so as to become a detriment to public health by weeds growing thereon, or by depositing of rubbish of any kind, which may be injurious to the health, and well being of the community;
- (4) To allow, suffer or permit any stagnant water to accumulate or stand upon the surface of the ground or upon or within any receptacle or structure deposited or erected, either above or below the ground, without exercising necessary precautions to prevent the propagation of mosquitoes therein;

- (16) To allow air, food, or drink to become unwholesome or detrimental to the health of human beings, as determined by the Orange County Health Department or the code official.

Sec. 4.5-4. - Violations.

Violations of the provisions of this chapter or failure to comply with any of the requirements ~~there~~herein shall be subject to code enforcement proceedings, the penalties set forth in Chapter 5.3, Code Enforcement, of the Maitland City Code, and any and all other legal remedies available to the City of Maitland, including condemnation or demolition of structures under the Standard Unsafe Building Abatement Code, 1985 edition.

SECTION 3. Chapter 5 is hereby renamed "**BUILDINGS, AND CONSTRUCTION REGULATIONS, AND PROPERTY MAINTENANCE.**"

SECTION 4. Article IV, "Housing," of Chapter 5 of the City of Maitland Code of Ordinances is hereby renamed "Property Maintenance" and shall be amended to read as follows:

ARTICLE IV. - HOUSING PROPERTY MAINTENANCE

Sec. 5-60. - Statement of intent.

- (a) It is the intent of the City Council to set minimum maintenance housing standards for basic equipment, light, ventilation, heating, sanitation and fire safety which are considered practical, desirable, and acceptable for existing structures and which will benefit the general health, safety, and social and economic welfare of the citizens, property owners, and occupants; ~~to offer a public service of building inspection activities to encourage correction of deficiencies relative to substandard housing units within the budgetary constraints and fiscal means of the City;~~ and to protect the community interests at large by encouraging residents and property owners to maintain property in accordance with the characteristics of the City and in accordance with the City's codes. ~~a Model Housing Code.~~
- (b) It is not the intent of the City Council to establish any type of housing agency or housing authority; to displace residents; and to provide financial assistance to residents or property owners who may be unwilling or incapable of meeting minimum accepted housing standards.

Sec. 5-61. International Property Maintenance Code Adopted.

The City hereby adopts the 2015 edition of the International Property Maintenance Code (IPMC) published by the International Code Council, and incorporates the same by reference as if fully set forth herein, including the City's amendments thereto to comply with Chapter 162, Florida Statutes, the Florida Building Code, and the City's Code of Ordinances. At least one copy of the International Property Maintenance Code, 2015 edition with the City's amendments thereto, together with this Ordinance, are on file with the City Clerk.

Sec. 5-6264. - Condemnation and demolition of violations.

The City hereby adopts and incorporates by reference the Standard Unsafe Building Abatement Code, 1985 edition, republished in 1994 by the Southern Building Code Congress International, Inc. with amendments set forth in Section 5-63 herein, to conform to Florida law and the City's Code of Ordinances. At least one copy of the Standard Unsafe Building Abatement Code, 1985 edition, together with this Ordinance, are on file with the City Clerk. The building official is authorized to condemn and order to be demolished and removed, or to be put in a sound state of repair, any and all building(s) within the City found to be in a dilapidated, unsanitary or unsafe condition. Upon determination that said building(s) should be condemned or demolished, the procedures as set forth in the Standard Unsafe Building Abatement Code, 1985 edition, as amended, ~~outlined in the Housing Code and the Unsafe Building Abatement Code, or where not otherwise applicable, as outlined in section 1-8 of this Code of Ordinances~~ shall be followed.

Sec. 5-632. - Assessment of costs of work done by City. Amendments to the Standard Unsafe Building Abatement Code, 1985 edition.

~~Any and all corrective actions which are accomplished by the City for compliance with the Housing Code because of failure on the part of owners, operators or occupants to do so, shall~~

cause an assessment of costs incurred to be placed against the owner or owners thereof. The Standard Unsafe Building Abatement Code, 1985 edition, referenced in Section 5-62 is amended in the following respects:

Throughout the Standard Unsafe Building Abatement Code, the term “Standard Building Code” shall be replaced with “Florida Building Code.”

Section 105, “Board of Adjustments and Appeals,” is hereby deleted. All sections of Article VI of Chapter 4.7 of the City Code creating the Board of Adjustments and Appeals shall apply.

Section 505 is hereby deleted.

SECTION 5. Article V, “Swimming Pools,” of Chapter 5 is hereby deleted:

ARTICLE V. SWIMMING POOLS

~~Sec. 5-74. — Owner's responsibilities in operation and maintenance of pool; City's authority; penalty for violation.~~

~~It is the responsibility of the pool owner to see that the operation of his pool does not cause undue noise or excess lighting which might prevent the enjoyment by adjoining property owners of their property.~~

- ~~(a) Upon construction of a swimming pool, the owner or persons responsible for its operation shall keep in service all items designed for the purification of the water supply or its protection from pollution, to perform adequately the function for which such were designed.~~
- ~~(b) Drains shall be provided whereby when pool is not to be used for a period of time, all piping, pits, etc., can be drained and the pool left drained.~~
- ~~(c) If any pool shall be allowed to contain stagnant or foul water, or water containing more than 1000 M.P.N. of B. Coli, the health officer shall give the owner thereof fifteen (15) days from the date of such notice, proceed to clean or empty such pool; and that the cost thereof will be a charge against such land until paid. Failure by the owner to proceed within the fifteen (15) day period shall also be a violation of this chapter and punishable in accordance with section 1-8.~~

SECTION 6. Section 5.3-41 of Article III, “Abandoned Real and Personal Property,” of Chapter 5.3 shall be amended to read as follows:

Sec. 5.3-41. - Maintenance requirements.

- (a) Properties subject to this chapter shall be kept free of overgrown weeds and brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded

personal items included, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

- (e) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required landscape and removal of all trimmings.
- (f) Pools and spas shall be maintained in accordance with the International Property Maintenance Code adopted in Chapter 5 of the code of ordinances. ~~so the w~~Water shall remain free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the ~~City Code of Ordinances~~ and Florida Building Code, as amended from time to time.

SECTION 7. Section 7-7 of Chapter 7, “Health and Sanitation,” of the City of Maitland Code of Ordinances is hereby amended to read as follows:

Sec. 7-7. - Control of rodents and insects ~~in vacant buildings.~~

- (a) Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.
- (b) If any building shall remain vacant and unattended for more than ninety (90) days, the owner of said building shall provide continuous control of rodents and roaches. Baits, powders or sprays shall be placed as often as the city considers necessary. Any building containing rodenticides or insecticides dangerous to pets or humans shall be secured against unauthorized entry. This control is not intended to apply to small detached buildings on otherwise occupied property.

SECTION 8. Codification. It is the intent of the City Council of the City of Maitland that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 9. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 10. Conflicts. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provisions of this Ordinance shall prevail to the extent that the provisions adopted herein establish the higher standards for the promotion and protection of the health and safety of the people. Provisions of the International Property Maintenance Code shall be considered supplemental to, cumulative and not superseding any other ordinance adopted by the City.

SECTION 11. Effective Date. This Ordinance shall become effective immediately upon adoption.

ADOPTED by the City Council of the City of Maitland, Florida, this ____ day of _____, 2016.

CITY OF MAITLAND, FLORIDA

A. DALE McDONALD
MAYOR

ATTEST:

CITY CLERK