

CITY COUNCIL OF THE CITY OF SEAT PLEASANT, MARYLAND

Ordinance No.: **O-10-07**
Introduced by: **City Council**
Date Introduced: **April 12, 2010**
First Reading: **April 12, 2010**
Second Reading: **May 10, 2010**
Date Adopted: **May 10, 2010**
Date Effective: **June 3, 2010**

AN ORDINANCE concerning

CHAPTER 67 – Property Maintenance

FOR the purpose of adopting the International Property Maintenance Code 2009 as the property maintenance code for the City of Seat Pleasant, subject to certain modifications; establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; providing standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; providing for the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing penalties for violations, and providing for enforcement of the regulations and standards; providing for appeals and judicial review of certain orders or decisions relating to the property maintenance code; providing for the application of such regulations, standards and penalties; and generally relating to the adoption of a property maintenance code for the City of Seat Pleasant.

BY repealing and reenacting, with amendments,
Chapter 67, Property Maintenance
Sections 67-1 and 67-2
Code of the City of Seat Pleasant (1994 Edition, as amended by Ordinance 06-01)

SECTION 1. BE IT ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that Sections 67-1 and 67-2, of the Code of the City of Seat Pleasant (1994 Edition, as amended) be and they hereby are repealed and reenacted, with amendments, to read as follows:

67-1. Adoption of standards; copies on file.

Subject to the modifications contained in §67-2, there is hereby adopted by the City of Seat Pleasant for the purpose of establishing minimum regulations governing the conditions and maintenance of buildings, structures and property in the city, and the condemnation and demolition of buildings and structures unfit for human occupancy or use, a certain document entitled the International Property Maintenance Code ((2003)) 2009, as published by the International Code Council. Not less than three (3) copies of the International Property Maintenance Code ((2003)) 2009 shall be kept on file in the office of the City Clerk.

67-2 Modifications.

The International Property Maintenance Code ((2003)) 2009, as adopted by §67-1, is modified as set forth below:

A. In the second ((line)) AND THIRD LINES of Section 101.1 on page 1, in the space labeled “[NAME OF JURISDICTION]” insert “City of Seat Pleasant”.

B. Section 102.7 on page 1 is revised to read as follows:

102.7 Referenced codes and standards: The standards referenced in this code and listed in Chapter 8, except the International Zoning Code, shall be considered part of the requirements of this code to the prescribed extent of each such reference, except to the extent that any of such standards have been expressly modified in the Code of the City of Seat Pleasant. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.

EXCEPTION: WHERE ENFORCEMENT OF A CODE PROVISION WOULD VIOLATE THE CONDITIONS OF THE LISTING OF THE EQUIPMENT OR APPLIANCE, THE CONDITIONS OF THE LISTING SHALL APPLY.

C. Section 102.3 on page 1 is revised to read as follows:

102.3 Application of other codes: Any repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of all other codes applicable within the City of Seat Pleasant.

D. New Section ((102.9)) 102.11 is added to Section 102 on page 1, IMMEDIATELY FOLLOWING SECTION 102.10, to read as follows:

((102.9)) 102.11 Conflicting provisions: In any situation where a provision of this code conflicts with the provision of any other law, ordinance, code or regulation, the provision which establishes the higher standard for the promotion and protection of the public health, safety and welfare shall prevail, regardless which may have been enacted first.

E. Delete in its entirety Section 103, Department of Property Maintenance Inspection, on pages 1 and 2, and substitute the following:

Section 103 Code Official.

103.1 General: This code shall be administered and enforced by the code official. The code official shall be such person or persons as the City Council designates from time to time.

F. Sections 106.3, 106.4 and 106.5 on page 3 are deleted and new Sections 106.3 and 106.4 are substituted, to read as follows:

106.3 Violations and Penalties:

1. Knowing and intentional violations of this code, failures to comply with this code, or refusals or failures to comply with a notice issued pursuant to Section 107 of this code, are declared to be misdemeanors. Any person who knowingly and willfully commits any of these acts shall, upon conviction, be guilty of a misdemeanor and subject to a fine of up to \$1,000, imprisonment for up to 6 months, or both fine and imprisonment. Each day that one of these acts continues is a separate offense.
2. Except as provided in paragraph 1 above, violations of this code, failures to comply with this code, or refusals or failures to comply with a notice issued pursuant to Section 107 of this code, are declared to be municipal infractions, and shall be subject to a fine ((Of up to \$400 per offense))ACCORDING TO THE ATTACHED FEE SCHEDULED. These acts are strict liability offenses. Each day that one of these acts continues is a separate offense.

((G. Section 106.4 on page 3 is revised to read as follows:))

106.4 Prosecution: In addition to the penalties provided for in Section 106.3 in case of any unlawful acts the code official, with the approval of the chief executive officer of the Town, may institute in the name of the Town an appropriate civil action or proceeding against the person responsible for the violation for the purpose of ordering that person:

1. To restrain, correct or remove the violation or refrain from further execution of work;
2. To restrain or correct the erection, installation, maintenance, repair or alteration of such BUILDING, structure OR PREMISES;
3. To require the removal of work in violation; or
4. To prevent the occupancy of the BUILDING, structure OR PREMISES that is not in compliance with the provisions of this code.

((H.)) G. The second sentence of Section 108.2 on page ((3)) 4 and 5 is revised to read as follows:

Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement with private persons, and the cost thereof shall be the responsibility of the owner of the structure, shall be a lien on the real estate upon which the structure is located, and may be collected and have the lien enforced in the same manner, and have the same rights, priority rights, interest and penalties as Town real property taxes.

((I.)) H. Section 109.5 on page ((4)) 5 is revised to read as follows:

109.5 Costs of emergency repairs: Subject to the availability of funds in the City's annual budget, costs incurred in the performance of emergency work shall be paid from the treasury of the City on

approval of the code official and the chief executive officer of the City. Upon request of the code official, with the concurrence of the chief executive officer of the City, the City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

((J.)) I. Section 110.3 on page ((5)) 6 is revised to read as follows:

110.3 Failure to comply: If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be the responsibility of the owner of the structure, shall be a lien on the real estate upon which the structure is located, and may be collected and have the lien enforced in the same manner, and have the same rights, priority rights, interest and penalties as City real property taxes.

((K.)) J. Section 111.1 through 111.8, inclusive, on page ((5)) 6 are deleted, and new Sections 111.1 through 111.5 are substituted, to read as follows:

111.1 Application for Appeal: Any person aggrieved by a decision of the code official may file a written notice of appeal with the City's Chief Executive Officer within fifteen (15) days following the day the decision, notice or order was served. A notice of appeal shall be accompanied by such fee as the City Council may prescribe BY ORDINANCE. A notice of appeal shall be based upon a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code have been incorrectly applied, the provisions of this code do not fully apply, the requirements of this code can be adequately satisfied by other means, or that the strict application of any requirement of this code would cause an undue hardship.

111.2 Hearing on Appeal: Any appeal properly and timely filed shall be heard by a hearing officer designated for that purpose by the Chief Executive Officer. The hearing officer shall be an attorney at law licensed to practice in Maryland. The hearing shall take place as soon as practicable, but in any event within 30 days, after the notice of appeal has been received by the Chief Executive Officer. Notice of the hearing shall be provided promptly to the person who filed the notice of appeal and the code official. The hearing shall be open to the public. The hearing officer shall determine the order of presentation of evidence and argument. At the hearing the hearing officer shall not apply strict rules of evidence but shall accept all evidence relevant to the issues on appeal and shall give such weight to the evidence as the hearing officer deems appropriate. The proceedings of the hearing shall be stenographically recorded.

111.3 Decision on Appeal: Promptly after the conclusion of the hearing the hearing officer shall decide the appeal by rendering written findings of fact and conclusions of law and send a copy to the Chief Executive Officer, the code official, the person who filed the notice of appeal and any other parties to the proceeding.

111.4 Judicial Review: Any person aggrieved by a decision of the hearing officer may file a request for judicial review to the Circuit Court for Prince George's County. Promptly after filing the request for judicial review, the person who files the request for judicial review shall obtain a transcript of the proceedings before the hearing officer at his or her expense and shall provide a copy to the Chief Executive Officer without charge.

111.5 Stay of Enforcement: Any notice or order of the code official (other than an Imminent Danger notice) is automatically stayed for a period of 15 days after service of the order or notice. If a notice of appeal is timely filed with the Chief Executive Officer, the notice or order is further stayed until the hearing officer has rendered a decision on the appeal. The notice or order, and decision of the hearing officer, is not stayed during any period of judicial review unless otherwise ordered by the court.

((L.)) K. The definition of "Code official" as contained in Section 202 on page ((7)) 9 is revised to read as follows:

CODE OFFICIAL: Such person or persons as the city council may designate from time to time.

L. SECTION 302.4 ON PAGE ((9)) 11 IS REVISED TO READ AS FOLLOWS:

302.4 WEEDS. ALL PREMISES AND EXTERIOR PROPERTY SHALL BE MAINTAINED FREE FROM WEEDS OR PLANT GROWTH IN EXCESS OF EIGHT (8) INCHES IN HEIGHT. ALL NOXIOUS WEEDS SHALL BE PROHIBITED. WEEDS SHALL BE DEFINED AS ALL GRASSES, ANNUAL PLANTS AND VEGETATION, OTHER THAN TREES OR SHRUBS, PROVIDED, HOWEVER, THIS TERM SHALL NOT INCLUDE CULTIVATED FLOWERS AND GARDENS.

UPON FAILURE OF THE OWNER OR AGENT HAVING CHARGE OF A PROPERTY TO CUT AND DESTROY WEEDS OR PLANT GROWTH PROHIBITED BY THIS SECTION AFTER SERVICE OF A NOTICE OF VIOLATION, THEY SHALL BE SUBJECT TO SECTIONS 106.3 AND 106.4. NOTWITHSTANDING SECTIONS 106.3 AND 106.4, UPON AN OWNER'S OR AGENT'S FAILURE TO COMPLY WITH THE NOTICE OF VIOLATION, AND PROVIDED THAT THE NOTICE OF VIOLATION ADVISES THE OWNER OR AGENT OF THE REMEDIES AVAILABLE TO THE CITY UNDER THIS PARAGRAPH, ANY DULY AUTHORIZED EMPLOYEE OR CONTRACTOR OF THE CITY MAY ENTER UPON THE PROPERTY IN VIOLATION AND CUT, DESTROY AND REMOVE THE UNLAWFUL WEEDS AND PLANT GROWTH GROWING THEREON, AND THE COSTS OF SUCH WORK AND REMOVAL SHALL BE PAID BY THE OWNER AND AGENT RESPONSIBLE FOR THE PROPERTY AND SHALL BE A LIEN ON SUCH PROPERTY, TO BE ENFORCED AND COLLECTED IN THE SAME MANNER AS CITY REAL PROPERTY TAXES.

M. In the first line of Section ((303.14)) 304.14 on page ((11)) 13, insert "May 1" in the space labeled "[DATE]"; and in the second line of Section ((303.14)) 304.14 insert "September 30" in the space labeled "[DATE]".

N. In the fifth line of Section 602.3 on page ((17)) 21, insert "October 1" in the first space labeled "[DATE]"; and insert "April 30" in the second space labeled "[DATE]".

O. In the third line of Section 602.4 on page ((17)) 21, insert "October 1" in the first space labeled "[DATE]", and insert "April 30" in the second space labeled "[DATE]".

SECTION 2. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that all other ordinances or parts of ordinances or provisions of the Code of the City of Seat Pleasant (1994 Edition, as amended) in conflict with the provisions of this Ordinance or the International Property Maintenance Code 2009 adopted by this Ordinance are hereby repealed.

SECTION 3. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that if any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other application of this Ordinance which can be given effect without the invalid provisions or application, and to this end, all the provisions of this Ordinance are hereby declared to be severable.

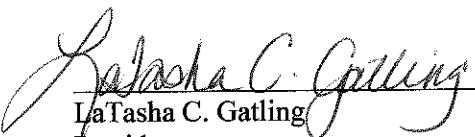
SECTION 4. AND BE IT FURTHER ORDAINED BY THE SEAT PLEASANT CITY COUNCIL that the City Clerk shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and that this Ordinance shall become effective twenty (20) days following approval by the Mayor or passage by the council after the veto by the Mayor.

ATTEST:



Dashawn Lanham
City Clerk

**COUNCIL OF THE CITY OF
SEAT PLEASANT**



LaTasha C. Gatling
President

APPROVED:

This Ordinance was presented to the Mayor for his approval of disapproval pursuant to Section C-313 of the Charter of the City of Seat Pleasant this May 11, 2010

Dashaun Lanham
Dashaun Lanham
City Clerk

In accordance with Section C-313 of the Charter of the City of Seat Pleasant, I hereby (APPROVE) (DISAPPROVE) this Ordinance this 14th day of May, 2010.

Eugene W. Grant, Mayor

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

((Double Parenthesis)) indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike Out~~ indicates matter stricken from bill by amendment or deleted from the law by amendment.

Section 302
Exterior Property Areas

The following schedules shall govern the fees for various fines for violations:

Violation	Reference	Fine
Failure to maintain exterior property and premises in a clean, safe and sanitary condition.	302.1- Sanitation	\$50
Failure to maintain graded premises from erosion of soil and to prevent the accumulation of stagnant water.	302.2- Grading Drainage	\$100
Failure to maintain sidewalks and driveway, walkways, stairs and parking spaces in a proper state of repair.	302.3- Sidewalks and Driveways	\$50
Failure to maintain premises and exterior property free of weeds or plant growth in excess of 10 inches.	302.4- Weeds	\$50
Failure to keep the exterior property and structures free from rodent harborage and infestation.	302.5- Rodent Harborage	\$100
Failure to maintain exhaust vents, pipes conductors, fans or blowers from discharging gases onto private or public property.	302.6- Exhaust Vents	\$100
Failure to maintain all accessory structures in a structurally sound and in good repair.	302.7- Accessory Structure	\$100
Non abatement of stored, unlicensed, inoperative wrecked and dismantled vehicles on the premises.	302.8 Motor Vehicles	\$400

To deface, damage, and mutilate any exterior structure or surface.	302.9- Defacement of Property	\$75
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Section 303
Swimming Pools, Spas and Hot Tubs

Failure to maintain swimming pool in a clean and sanitary condition.	303.1- Swimming Pools	\$50
Failure to enclosed private pools, hot tubs and spas.	303.2- Enclosures	\$50

Section 304
Exterior Structures

Failure to maintain exterior structure in good repair, structurally sound and sanitary condition.	304.1- Exterior Structure	\$100
Failure to use protective treatment on all exterior surfaces.	304.2- Protective treatment	\$50
Failure to properly display premises identification.	304.3- Premises Identification	\$25
Failure to maintain structural members free from deterioration.	302.4- Structural Members	\$100
Failure to maintain foundation wall.	304.5- Foundation Walls	\$150
Failure to maintain exterior walls.	304.6- Exterior Walls	\$100
Failure to properly secure a sound, tight roof and flashing to not have defects that admit rain.	304.7- Roofs and Drainage	\$100

Failure to maintain decorative features in good repair and repair with the proper anchorage and a in safe condition.	304.8- Decorative features	\$50
Failure to maintain overhang extension in good repair.	304.9- Overhang Extensions	\$150
Failure to maintain stairways, deck, porches and balconies in a structurally and sound condition.	304.10- Stairways, decks, Porches and balconies	\$100
Failure to maintain chimneys and towers.	304.11- Chimneys and Towers	\$200
Failure to maintain handrails and guard.	304.12- Handrails and guards	\$75
Failure to maintain windows, skylight and door frames	304.13- Windows, skylight and door frames	\$50
Failure to have insect screens	304.14- Insect Screens	\$50
Failure to maintain all exterior doors in good condition.	304.15- Doors	\$50
Failure to maintain basement hatchways to prevent entrance of rodents, rain and surface drainage.	304.16- Basement Hatchways	\$75
Failure to maintain guard's on basement windows.	304.17- Guards on Basement windows	\$100
Failure to provide devices design to provide security for occupants	304.18- Building Security	\$100

Section 305
Interior Structure

Failure to maintain interior structure and equipment in good repair.	305.1- General	\$100
Failure to maintain structural	305.2 Structural Members	\$150

Failure to maintain all interior surfaces free from peeling chipping and flaking.	305.2- Interior Structure	\$100
Failure to maintain stairs and walking surfaces	305.4- Stairs and Walking Surfaces	\$75
Failure to maintain handrails and guards.	305.5- Handrails and guards	\$75
Failure to fit all exterior doors reasonably well within its frame	305.6- Interior Doors	\$50

**Section 306
Component Serviceability**

Failure to maintain the components of a structure and equipment therein in good repair.	306.1-General	\$50
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**Section 307
Handrails and Guardrails**

Failure to maintain proper handrails and guards.	307.1- General	\$75
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**Section 308
Rubbish and Garbage**

Failure to maintain property free from rubbish and garbage.	308.1- Rubbish and Garbage	\$50
Failure to properly dispose of rubbish and garbage.	308.2- Disposal of Rubbish 308.3- Disposal of garbage	\$50

Section 309
Pest Elimination

Failure to maintain property free from rodent and insect infestation	309.1- Infestation	\$75
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