

Chapter 67

BUILDINGS, UNFIT; PROPERTY MAINTENANCE

[**HISTORY:** Adopted by the Mayor and Council of the Town (now City) of Seat Pleasant 12-16-1968 as Ch. 32 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Department of Public Works Fees, Charges and Rates — See Ch. 20, Art. I.
Brush, grass and trees — See Ch. 59.
Building construction — See Ch. 63.
Fire prevention — See Ch. 88.
Health and sanitation — See Ch. 101.
Nuisance properties — See Ch. 114.
Solid waste — See Ch. 129.
Streets and sidewalks — See Ch. 137.
Storage of vehicles — See Ch. 154.

§ 67-1. Adoption of standards; copies on file. [Added 3-13-2006 by Ord. No. 06-01; amended 5-10-2010 by Ord. No. O-10-07; 10-13-2013 by Ord. No. O-14-04]

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, certain documents entitled the "Minimum Livability Code," adopted by the Maryland Department of Housing and Community Development and set forth in Title 5, Subtitle 2, Chapter 3 of the Code of Maryland Regulations, and the International Property Maintenance Code, as published by the International Code Council, as the Property Maintenance Code for the City, subject to certain modifications and the provisions of this chapter to address conditions peculiar to the City. Not fewer than three copies of the Minimum Livability Code and the 2012 Edition of the International Property Maintenance Code shall be kept on file in the office of the City Clerk. In any situation where a provision of the Minimum Livability Code, the 2012 International Property Maintenance Code and/or this chapter conflict, the provision which establishes the higher standard for the promotion and protection of the public health, safety and welfare shall prevail, regardless of which may have been enacted first.

§ 67-2. Modifications. [Added 3-13-2006 by Ord. No. 06-01; amended 5-10-2010 by Ord. No. O-10-07; 10-13-2013 by Ord. No. O-14-04]

The 2012 Edition of the International Property Maintenance Code, as adopted by § 67-1, is modified as set forth below:

A. Section 101.1 on page 1 is deleted and new Section 101.1 is substituted, to read as follows:

101.1 Title. These regulations shall be known, and may be cited, as the "International Property Maintenance Code." As used hereinafter, "the code" shall mean and refer to these regulations.

B. Section 102.3 on page 1 is deleted and new Section 102.3 is substituted, to read as follows:

102.3 Application of other codes. Any repairs, additions or alternations 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.

C. Section 102.7 on page 1 is deleted and new Section 102.7 is substituted, 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.

D. New Section 102.11 is added to Section 102 on page 2, immediately following Section 102.10, to read as follows:

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. Section 103, Department of Property Maintenance and Inspection, is deleted and new Section 103, Code Official, is substituted, to read as follows:

Section 103 Code Official

103.1 General. The official designated by the City Council to administer and enforce this code shall be known as the "Code Official." The Code Official shall serve at the pleasure of the City Council. The City Council may contract with an independent agency or organization for code inspection and enforcement services.

103.2 Fees. The City Council may, by resolution, establish fees for activities and services performed by the Code Official in carrying out the Code Official's

responsibilities under this code.

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 six 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 according to the approved fee schedule. These acts are strict liability offenses. Each day that one of these acts continues is a separate offense.

106.4 Prosecution. In addition to the penalties provided for in Section 106.3, in case of any violation of this code, the Code Official, with the approval of the Chief Executive Officer of the City, may institute in the name of the City 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.

G. Section 108.2 on page 5 is deleted and new Section 108.2 is substituted, to read as follows:

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure 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 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 City real property taxes.

H. Section 109.5 on page 6 is deleted and new Section 109.5 is substituted, 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.

I. Section 110.3 on page 6 is deleted and new Section 110.3 is substituted, 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.

J. Sections 111.1 through 111.8, inclusive, on pages 6 and 7 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 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 resolution. 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 within 30 days of the date of the hearing officer's decision. 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.

K. The definition of "Code Official" as contained in Section 202 on page 9 is deleted and a new definition of "Code Official" is substituted, to read as follows:

CODE OFFICIAL. The official designated by the City Council to administer and enforce this code.

L. Section 302.4 on page 11 is deleted and a new Section 302.4 is substituted, 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 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, that 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, he or she 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 the responsibility of the property owner, shall be a lien on the real property, 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.

§ 67-3. Hearing.

At the time stated in the ordinance, the Mayor and Council shall hear the owner of the property or his/her representative, if either should appear, and may also hear any additional evidence bearing on the case.

§ 67-4. Declaration of nuisance; order to abate.

If after the hearing the Mayor and Council shall be of the opinion that the condition of said property is dangerous to property or health or menaces the lives of persons passing along and over the highways of the City or residing in such structure or in the neighborhood of such structure, the Mayor and Council shall pass an ordinance declaring the condition in question to be a nuisance and ordering it to be abated within a period prescribed in the ordinance.

§ 67-5. Violations and penalties.

- A. If the nuisance so declared is not abated within the period prescribed in said ordinance, the owner of the property shall be deemed guilty of a municipal infraction and, upon conviction thereof, shall be subject to a fine of \$400 for each day during which the nuisance is continued after the expiration of the period prescribed for its abatement, each day's violation of said ordinance being hereby declared to be a separate offense. [Amended 2-14-1994 by Ord. No. 94-01]
- B. If the nuisance is not abated within the period prescribed by the ordinance as aforesaid, the Mayor and Council shall, in addition to the penalty prescribed herein, take such other and further steps as may be necessary, either by the repair or removal of the property, the costs thereof to be assessed against the property and to become a lien thereon and collectible in the same manner as delinquent City taxes.

§ 67-6. Condemnation.

- A. Any building which shall be found by the Mayor and Council to come within any of the following descriptions shall be condemned by the Mayor and Council as unfit for human habitation and shall be so designated and placarded by the Code Enforcement Officer: [Amended 2-14-1994 by Ord. No. 94-01]
 - (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.
 - (2) One which lacks illumination, ventilation or sanitary facilities adequate to protect the health or safety of the occupants or the public.
 - (3) One which because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
- B. Whenever the Code Enforcement Officer or the Chief of Police of the City in which the premises are situated or any other person authorized by the Mayor and Council

to make an inspection has reason to believe that any building used for human habitation or intended to be so used should be condemned as unfit for human habitation, he/she shall so notify the Mayor and Council, stating the location of the building and the respect or respects in which he/she believes it to be unfit. [Amended 2-14-1994 by Ord. No. 94-01]

- C. The Mayor and Council may set a time and place for a hearing as to the condition of any building to which their attention has been called under Subsection B of this section and shall give at least 10 days' notice of such hearing. The notice, which shall state the nature of the alleged defect or defects in the building, shall be served personally on the owner or his/her agent if he/she can be found in the City. In the event that the owner or his/her agent cannot be found in the City, the notice shall be sent to the owner or his/her agent by registered mail, return receipt requested, to his/her last known address. In the event that the addressee fails to receive said notice and said notice is returned to the City, then and in that event a copy of said notice shall be:
 - (1) Published in a newspaper of general circulation in the City.
 - (2) Sent by regular mail to the occupant or occupants of the building.
 - (3) Posted in a conspicuous place on the premises on which the building is located.
- D. At the hearing, the Code Enforcement Officer and/or any representative he/she may designate or any other person previously authorized by the Mayor and the Council to make an inspection of the premises shall submit evidence to substantiate his/her belief that the building comes within one of the descriptions set forth in Subsection A of this section; and any person who wishes to oppose the condemnation of the building as unfit for human habitation shall, if having filed notice of such intention with the Mayor and Council at least two days previously, be given a reasonable time for the presentation of any reasons why the building should not be so condemned. The Mayor or, in his/her absence, any Councilperson designated for the purpose by a majority of the Councilpersons present shall preside at the hearing and determine how much time shall be allotted to each person and the order in which they shall speak, provided that the Code Enforcement Officer shall present his/her evidence first and shall be permitted to address the Mayor and Council after all others have spoken. [Amended 2-14-1994 by Ord. No. 94-01]
- E. After the hearing, the Mayor and Council shall determine whether or not the building should be condemned as unfit for human habitation. In case it is so condemned, the Mayor and Council may also determine whether it should be destroyed or whether the defect or defects found may be corrected by making specified improvements.
- F. Any building condemned by the Mayor and Council as unfit for human habitation, after a hearing provided in this section, shall, if so directed by the Mayor and Council, be so placarded by the Code Enforcement Officer and shall be vacated within a reasonable time as ordered by the Mayor and Council or by the Code

Enforcement Officer if no time has been specified by the Mayor and Council. [Amended 2-14-1994 by Ord. No. 94-01]

- G. No building which has been condemned by the Mayor and Council under the provisions of this section shall be again used for human habitation until written approval is secured from the Code Enforcement Officer, if he/she has participated in any way in the proceedings under this section. Such approval must be given and the placard removed by the Code Enforcement Officer whenever the defect or defects on which the Mayor and Council's condemnation was based shall have been eliminated or adequately corrected. [Amended 2-14-1994 by Ord. No. 94-01]
- H. No person shall deface or, except as provided in Subsection G of this section, remove any placard placed on any premises in accordance with Subsection F of this section.
- I. Any person who shall violate any provision of this section shall upon conviction be subject to fine of \$400, and each day's failure to comply with any such provision shall constitute a separate violation. [Amended 2-14-1994 by Ord. No. 94-01]