

CHAPTER 9. CONDITION AND USE OF COMMERCIAL AND INDUSTRIAL BUILDINGS*

Sec. 10-9001. FINDINGS

(a) Findings and declaration of policy.

1. It is hereby found and declared that there exist, in the City of East Point, structures used for commercial and industrial use which are, or may become in the future substandard with respect to structure, equipment or maintenance or, further, that such conditions, including, but not limited to, structural deterioration, lack of maintenance and appearance of exterior premises, infestation and existence of fire hazards constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of East Point.
2. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, these conditions will grow and spread and will necessitate the expenditure of large amounts of public funds to correct and eliminate such conditions, that by reason if timely regulations and restrictions contained in this code, the desirability and amenities of commercial and industrial uses may be enhanced and the public health, safety and welfare protected and fostered.

Sec. 10-9002. PURPOSE

The purpose of this code is:

1. To protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and conditions of commercial, business and industrial premises;
2. To establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for occupancy and use;
3. To fix certain responsibilities and duties upon owners and operators;
4. To authorize and establish procedures for the inspection of commercial and industrial premises and;
5. To fix penalties for the violations of this code, and to provide for the repair, demolition or vacation of premises unfit for occupancy or use.

This code is hereby declared to be remedial and essential for the public interest and it is intended that this code be liberally construed to effectuate the purposes as stated herein.

Sec. 10-9003. DEFINITIONS

Accessory structure: A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

Building: Any structure with a roof, designed or built for the support, enclosure, shelter, or protection of any persons, animals, or property of any kind.

Chief Building Official: Any person inspecting for compliance with the various adopted codes who is a licensed design professional (architect or engineer) or holds one of the following certifications from SBCCI (ICC): Property Maintenance and Housing Inspector, Housing Rehabilitation Inspector, Building Inspector, Building Plan Examiner or Commercial Combination Inspector.

Deterioration: the condition of a building or part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, excessive use. All exterior wood and composition surfaces shall be properly protected from the elements and against decay by paint, stain, or other protective coating and applied in a workmanlike manner.

Elements: Any element, whether created by nature or by man, which, with reasonable foreseeability could carry litter from one place to another. Elements shall include, but not be limited to, air current, rain, water current and animals.

Exposed to public view: Any premises, or any part thereof, or any building, or any part thereof, which may be viewed by the public.

Exterior of premises: Open space on the premises outside of any building thereon.

Extermination: The control and elimination of insects, rodents and vermin.

Garbage: Decayed and decomposed animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Infestation: The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.

Nuisance:

- (1) Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the state or the ordinances of the city.
- (2) Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building, or upon an unoccupied lot. This

includes, but is not limited to, abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures; lumber, trash, fences, debris, or vegetation such as poison ivy, oak or sumac, which may prove a hazard for inquisitive minors.

- (3) Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the condition exists.
- (4) Insanitary conditions or anything offensive to the senses or dangerous to health, in violation of this code.
- (5) Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings.
- (6) Fire hazards.

Operator: Any person who has charge, care or control of premises, or a part thereof, whether with or without the knowledge and consent of the owner.

Owner: Any person who, alone or jointly or severally with others, shall have a legal or equitable title to any premises, with or without accompanying actual possession thereof; or shall have charge, care, or control of premises, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate or as a mortgagee in possession either by virtue of a court order or by voluntary surrender by the person holding the legal title. Any person who is a lessee subletting or reassigning any part or all of any premises shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

Premises: A lot, plot or parcel of land including the buildings or structures thereon.

Refuse: All decayed and decomposed solid waste, except body wastes, including, but not limited to, garbage, rubbish, ashes, dead animals, abandoned automobiles and solid wastes..

Registered mail: Letters needing a chain of custody that provides more control than regular mail. The mail has its details recorded in a register to enable their location to be tracked.

Rubbish: Solid wastes consisting of both combustible and non combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials..

Sec. 10-9004. APPLICABILITY

(a) *Generally.* Every commercial or industrial establishment, and the premises on which it is situated in the city, used or intended to be used for commercial or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code, and irrespective of any

permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the enactment of this code. This code establishes minimum standards for the initial and continued occupancy and use of all commercial and industrial buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the building, equipment or facilities contained therein, except as provided in subsection (b). Where there is mixed occupancy, any commercial or industrial use therein shall be nevertheless regulated by and subject to the provisions of this code.

(b) *Higher standard to prevail in case of conflict with other ordinances or laws.* In any case where the provisions of this code imposes a higher standard than set forth in any other ordinances of the city or under the laws of the state, then the standard as set forth herein shall prevail, but if the provisions of this code impose a lower standard than any other ordinance of the city or of the laws of the state, then the higher standard contained in any other ordinance or law shall prevail.

(c) *Issuance and renewal of other permits and licenses.* All licenses and permits shall be issued upon compliance with this code as well as compliance with the ordinance under which such licenses and permits are granted.

(d) *Enforcement of and compliance with other ordinances.* No license or permit or other certification of compliance with this code shall constitute a defense against any violation of any other ordinance of the city applicable to any structure or premises, nor shall any provision herein relieve any owner or operator from complying with any such other provision or any official of the city from enforcing any such other provision.

Sec. 10-9005. ADMINISTRATIVE PROVISIONS

(a) *Supervision.* Responsibility for enforcement of this code is vested in the chief building official and all inspections, regulations, enforcement and hearings on violations of the provision of this code, unless expressly stated to the contrary, shall be under his or her direction and supervision. The city manager may appoint or designate such other public officials or employees of the city to perform duties as may be necessary to the enforcement of this code, including the making of inspections and holding of hearings.

(b) *When inspections are to be made.* All buildings and premises subject to this code are subject to inspections from time to time by the enforcing officer. At the time of such inspections, all rooms and parts of the premises must be available and accessible for such inspections, and the owner and occupant operator are required to provide the necessary arrangements to facilitate such inspections. Such inspections shall be made during regular business hours of the commercial or industrial enterprise occupying the said premises unless there is reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection or abatement without delay.

(c) *Where entry by inspectors is refused.*

- (1) *Penalties.* Where the chief building official or his or her agent is refused entry or access or is otherwise impeded or prevented by the owner or occupant operator from conducting an inspection of the premises, such person shall be in violation of this code and subject to the penalties hereunder.
- (2) *Search warrant or access warrant.* In addition to the provisions of subsection (c)(1) the chief building official may, upon affidavit, apply to the magistrate of the city for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this code exists on the premises, and if the magistrate is satisfied as to the matter set forth in the said affidavit, he or she shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation exists.
- (2) *Procedure where violation discovered.* Where a violation of this code hereunder is found to exist, a written notice from the chief building official shall be served on the person or persons responsible for the correction thereof. The notice shall give the property owner ten (10) days based on the practical considerations of completing measures to comport with standards, specify the violation or violations committed and what must be done to correct the same.
- (4) *Service of notice.* Notice shall be served personally or by certified mail, addressed to the last known address of the person to be served. If the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the building.
- (5) *Notice to become an order unless hearing is requested.* Within ten (10) days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon, serves, a written request within the ten-day period in person or by mail to the chief building official. Such request for a hearing shall set forth briefly the grounds or reasons on which the request for a hearing is based and the factual matters contained in the notice of violation which are to be disputed at the hearing. The chief building official upon receipt of the request shall within thirty (30) days from and upon five (5) days' notice to the party aggrieved set the matter down for hearing.
- (6) *Determination at hearing.* At any hearing provided hereunder the chief building official shall be vested with all the powers provided by law to compel the attendance of witnesses and parties in interest and service of subpoena, to require by subpoena the production of books, records or other documents at any such hearing which may be pertinent to matters to be determined by him and to enforce any such subpoena or secure any order for the enforcement of such subpoena as provided by law. Determination shall be made within ten (10) days from the completion of the hearing. The chief building official shall issue an order either incorporating the determinations and directions contained in the notice, modifying the same or withdrawing the notice.
- (7) *Extensions of time.* The chief building official may extend the time for correction or abatement of the violations for an additional period of time not to exceed thirty (30) days,

except where major capital improvements or renovations are involved, in which instance the time for completion may be extended for a period not to exceed ninety (90) days beyond the expiration date of the original notice.

- (8) *Summary abatement in emergency; notice and hearing not required.* Where the violation or condition existing on the premises are of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the chief building official may either abate the violation or condition immediately or order the owner, operator or occupant to correct the violation within a period of time not to exceed three (3) days, and upon failure to do so, the chief building official shall abate the condition immediately thereafter.
- (9) *Cost of abatement to be a lien against premises.* Where abatement of a violation or condition is required hereunder, the chief building official shall cause to be certified to the owner of the premises the cost thereof. After determination of abatement is made as the determination shall be certified to the tax collector and shall become a lien on the property and be collected by the same procedure as real property taxes.

Sec. 10-9006. PENALTIES

A violation of any of the sections or subsections of this code shall be punishable as provided in section 1-1006 of this Code. Each violation of a section or subsection of this code shall constitute a separate and distinct violation independent of any other section or subsection or any order issued pursuant to this code. Each day's failure to comply with any such section or subsection shall constitute a separate violation.

Sec. 10-9007. DUTIES AND RESPONSIBILITIES OF OWNER AND OPERATOR

- (a) *Maintenance of exterior of premises free of hazards and insanitary conditions.* The exterior of the premises and of all structures thereon shall be kept free of all nuisances, and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and free of insanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include, but are not limited to, the following:
1. *Refuse.* An accumulation of brush, broken glass, stumps and roots that present a safety hazard. Also garbage, trash and debris which present an unsanitary and/or a safety hazard.
 2. *Natural growth.* Dead trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitutes a hazard to persons in the vicinity thereof.
 3. *Overhangings.* Loose and overhanging objects which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof.

4. *Sources of Infestations.* The permitting of any premises to become infested with vermin or rodents is declared to be a nuisance and unlawful. No owner, occupant or person in charge or control of any premises shall cause or knowingly permit such premises to become or to remain infested with vermin or rodents.
 5. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor.
- (b) *Storage of Commercial and Industrial Material.* There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use.
- (c) *General Maintenance.* The exterior of every commercial structure or accessory structure, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, loose boards or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties from blighting influences.
- (d) Litter Control
1. *Litter Collections and Storage Area.* Every owner, occupant or lessee of a building used for commercial or industrial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter collection and storage areas shall constitute a violation of this subsection.
 2. *Duty to Collect Litter before it is carried from the Premises.* All litter that is subject to movement by the elements shall be secured by the owner of the premises where it is found before the litter is allowed to be removed from the premises by the elements.
 3. *Neglected Premises Visible to the Public.* It shall be the duty of any person owning or controlling any premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonable clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.
 4. *Areas Around Business Premises.* The owner or person in control of any public place, including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, gas stations, and hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of such premises so as to permit it to accumulate litter.

5. *Loading and Unloading Docks.* The person owning, operating or in control of loading or unloading a dock shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried from the premises by the elements.
 6. *Construction Sites.* The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall be picked up at the end of each work day and placed in containers which will prevent litter being carried from the premises by the elements.
 7. *Maintaining Sidewalks and Alleys.* Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper and waste.
 8. *Abandoned Garbage.* It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste, garbage, which has been containerized in accordance with a contract for its removal, to allow refuse, waste or garbage to remain uncollected for longer than seven (7) days or, in any case, until after that refuse, waste or garbage creates any condition which is offensive to persons upon any private premises or public places.
- (e) *Windows.* All windows exposed to public view shall be kept clean and free of foreign substances except when necessary in the course of changing displays. No storage of materials, stock or inventory shall be permitted in window display areas or other areas ordinarily exposed to public view.
- (f) *Store fronts.* All store fronts shall be kept in good repair, painted where required, and shall not constitute a safety hazard or nuisance. In the event repairs to a store front become necessary, such repairs shall be made with the same or similar materials used in the construction of the store front in such a manner as to permanently repair the damaged area or areas. Any cornice visible above a store front shall be kept painted, where required, and in good repair.
- (g) *Awnings and marquees.* Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or any other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event said awnings or marquees are made of cloth, plastic or of a similar material, said cloth or plastic where exposed to public view shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing or

other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks, or other parts of the public domain.

- (h) *Structural soundness and general exterior maintenance.* The exterior of every structure or accessory structure including fences, signs and store fronts shall be maintained in good repair and all surfaces thereof shall be kept painted or whitewashed where necessary for purposes of preservation and appearance or coated with a protective coating or treated to prevent rot and decay. All surfaces shall be maintained free of broken windows, crumbling stone or brick, peeling paint or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences.
1. *Reconstruction of walls and sidings.* All reconstruction of walls and sidings shall be of standard quality and appearance commensurate with the character of other properties in the same block and on both sides of the street on which the premises front such that the materials used shall not be of a kind that by their appearance under prevailing appraisal practices and standards will depreciate the value of neighboring and adjoin premises as aforesaid.
 2. *Floors generally.* Floors shall be considered to be structurally sound when capable of safely bearing imposed loads and shall be maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks and other hazards.
 3. *Washroom and water closet compartment floors.* Washroom and water closet compartment floors shall be surfaced with water-resistant material and shall be kept in a dry, clean and sanitary condition at all times.
 4. *Supporting structural members.* Supporting structural members are to be kept structurally sound, free of deterioration and capable of bearing imposed loads safely.
 5. *Walls and ceilings generally.* Walls and ceilings shall be considered to be in good repair when clean, free from cracks, breaks, loose plaster and similar conditions. Walls shall be provided with paint, paper sealing material or other protective covering so that the said walls and ceilings shall be kept clean, free of visible foreign matter, sanitary, and well-maintained.
 6. *Lighting of washrooms.* Every washroom and water closet compartment shall be provided with permanently installed artificial lighting fixtures with a switch and wall plate so located and maintained that there is no danger of short-circuiting from water from other bathroom facilities or from splashing of water.
 7. *Electrical service generally.* All premises shall be properly connected to and be provided with electric power through safely insulated conductors conforming to the National Electrical Code and any and all amendments made to the National Electrical Code by the city.

8. *Loose or exposed wiring.* Except as hereinafter stated, all wiring or cables shall be properly affixed or attached to the structure. Insulation shall be provided for all wiring and cables and kept in good repair. No loose cords or loose extension lines in excess of six (6) feet in length shall be permitted and no ceiling or wall fixture shall be used for supplying power to equipment other than that for which they are designed.
9. *Fuses and protective devices.* Maximum fuse sizes consistent with safety shall be posted conspicuously on the inside cover of all fuse boxes and no fuse shall be installed therein in excess of the stated maximum except that owners shall not be responsible for violation in fuse installations without their knowledge where the correct maximum is stated and the fuse box is located within any part of the premises which is in the exclusive possession of occupants other than the owner.
10. *Overloading of circuits.* Overloading of circuits is prohibited. Where the chief building official finds after notice and hearing that by reason of the appliances and fixtures there is continuing overloading of an electrical line creating a hazard, the owner shall be required to install a line of sufficient capacity to absorb the load to which the line is subjected or otherwise eliminate the conditions causing the overload. For purposes of this section, the director of inspections may consider the peak seasonal load to which the line is subjected.
11. *Responsibility for removal.* The owner or operator shall have the duty and responsibility of removing garbage.
12. *Accumulating refuse and nonfireproof storage prohibited.* Storage bins, rooms and areas shall not be used for accumulated garbage or refuse. Inflammable or combustible liquids or other materials may not be stored on the premises unless they are of a type approved for storage by the regulations of the fire department, and then only in such quantities and in such fireproof storage containers as may be prescribed by the regulations.
 - (i) *Damage to city-owned public property or right-of-way:* Any party, including, but not limited to individuals, private businesses, corporations, developers, builders, utility companies, owners or occupant operators, or their contractors, shall be responsible for any damage they or their contractors, subcontractors, employees, agents or representatives do to any road, right-of-way or other city property while performing any construction, pipe or cable installation, landscaping or other duties. Upon causing said damage, the responsible party shall take all necessary steps within ten (10) days to correct such damages by removing all debris and restoring the city-owned property or right-of-way to its original condition. In the event that the corrections are not made within said time, the persons or entities responsible shall indemnify the city for the full costs of having such damages repaired. Upon a finding by the Director of Public Works or his or her designee, that a party has failed to comply with this ordinance such party shall be subject to a cease and desist work order and a fine which may be set at the

maximum penalty fee allowed for such an offense under the law but shall be no more than one thousand dollars (\$1,000.00). Additionally, the persons or entities may be subject to treble the actual damages incurred by the city or other property owners in restoring the affected property to its original condition.