

Amended 4/10/2023



**CITY OF ALLEGAN
CITY COUNCIL STUDY SESSION MEETING
Monday, April 10, 2023, 5:30PM
City Council Chambers - 231 Trowbridge Street
Allegan, Michigan**

*****NO ACTION IS TAKEN DURING THE STUDY SESSION*****

1. Call to Order
2. Public Comment Period
3. Round Table Discussion amongst Council Members
4. Update from Water Utilities Director Doug Sweeris regarding Water Loss and Leak Detection
5. Review of Downtown Infrastructure and Streetscape Project Update Report
6. Review of Revised Chapters from the City of Allegan Code of Ordinances
7. Review of Council Agenda
8. Adjourn to regular meeting to begin at 7:00 pm



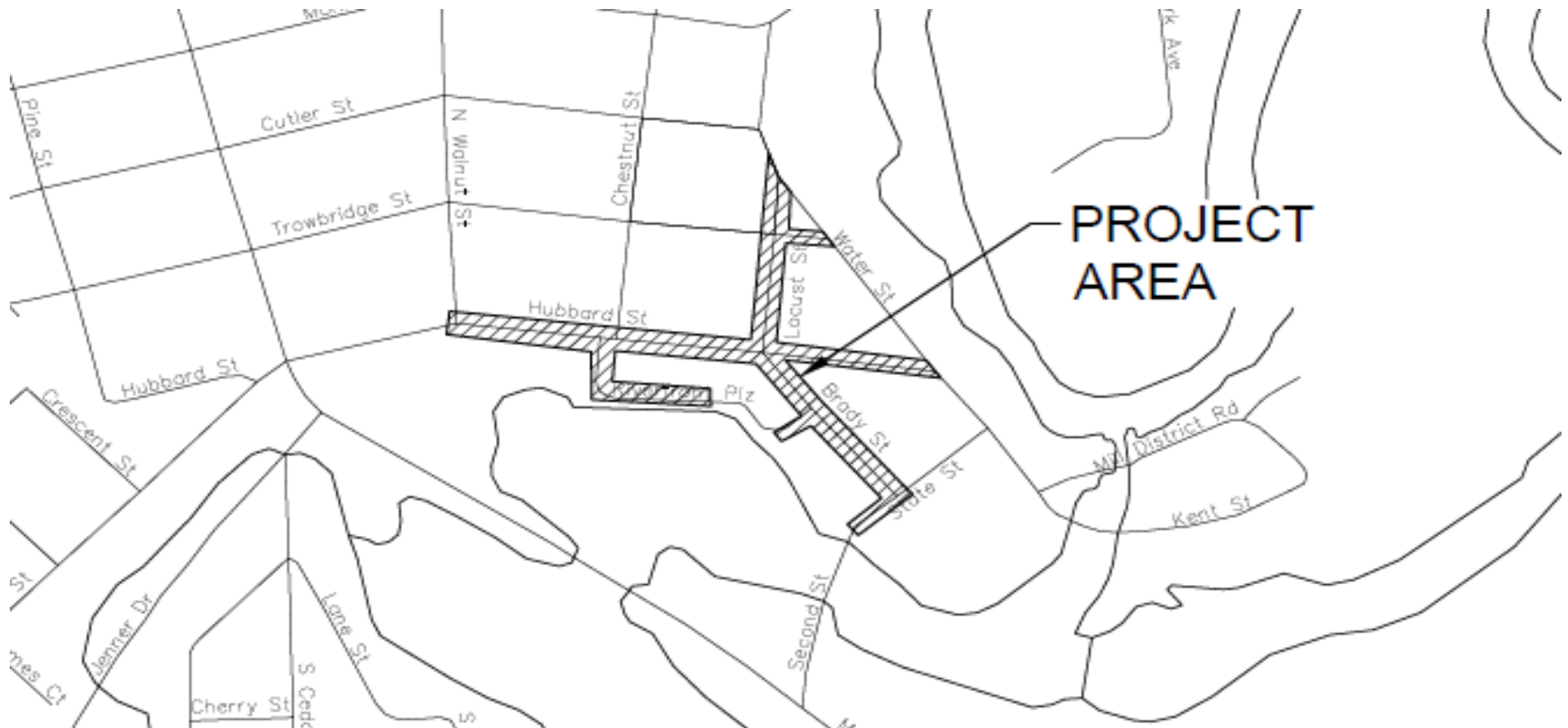
Downtown Infrastructure & Streetscape Project Progress Report



Monthly Update – March 2023



Project Scope



The Downtown Infrastructure and Streetscape Project is a capital improvement project being conducted by the City of Allegan to completely replace all underground utilities, streets, sidewalks, landscaping, streetlights, and other pedestrian amenities along Hubbard Street, Brady Street, and Locust Street in Downtown Allegan. This includes the creation of a public plaza the east end of Trowbridge Street between Locust Street and Water Street.



Project Schedule — This schedule is dependent on weather and material availability.

PHASE ONE – Brady Street, State Street, Hubbard Street (from the Locust/Brady/Hubbard Intersection to Water Street) April 3, 2023, to July 17, 2023			
Work	Duration	Estimated Start Date	Estimated End Date
Traffic Control/Mobilization	1 Day	April 3, 2023	April 3, 2023
Milling	1 Day	April 4, 2023	April 4, 2023
Removals	5 Days	April 5, 2023	April 11, 2023
Sanitary	10 Days	April 12, 2023	April 25, 2023
Watermain	8 Days	April 26, 2023	May 5, 2023
Test Watermain	4 Days	May 8, 2023	May 11, 2023
Tie Ins/Water Services	7 Days	May 12, 2023	May 22, 2023
Storm Sewer	10 Days	May 23, 2023	June 05, 2023
Excavation/Subbase/Aggregate Base	6 Days	June 6, 2023	June 13, 2023
Curb and Gutter	4 Days	June 14, 2023	June 19, 2023
Electrical Underground	10 Days	June 14, 2023	June 27, 2023
Flatwork	10 Days	June 20, 2023	July 3, 2023
HMA Paving/Casting Adjustments	5 Days	July 4, 2023	July 10, 2023
Restoration/Cleanup	5 Days	July 11, 2023	July 17, 2023
PHASE TWO – Locust Street and Trowbridge Plaza July 18, 2023, to November 3, 2023			
Traffic Control/Mobilization	1 Day	July 18, 2023	July 18, 2023
Milling	5 Day	July 19, 2023	July 25, 2025
Removals	5 Days	July 26, 2023	August 1, 2023
Sanitary	6 Days	August 2, 2023	August 9, 2023
Watermain	7 Days	August 10, 2023	August 18, 2023
Test Watermain	4 Days	August 21, 2023	August 24, 2023
Tie Ins/Water Services	8 Days	August 25, 2023	September 5, 2023
Storm Sewer	7 Days	September 6, 2023	September 14, 2023
Excavation/Subbase/Aggregate Base	5 Days	September 15, 2023	September 21, 2023
Curb and Gutter	4 Days	September 22, 2023	September 27, 2023
Electrical Underground	10 Days	September 22, 2023	October 5, 2023
Flatwork	15 Days	September 28, 2023	October 18, 2023
HMA Paving/Casting Adjustments	6 Days	October 19, 2023	October 26, 2023
Restoration/Cleanup	6 Days	October 27, 2023	November 3, 2023

NOTE: The remaining work on Downtown including the west end of Hubbard Street and the Utilities on the Riverfront will occur in 2024



Project Progress

Work completed during prior month.

- Groundbreaking ceremony was held on March 20, 2023.
- Work began on March 20, 2023. The pavement and base layer of bricks were removed on Brady Street and Hubbard Street (between Locust and Water Streets). The contractor began installing the sewer main along Brady Street.
- Staff met with leadership from the Tech Center regarding the design and fabrication of bicycle racks to be installed as part of this project. The Tech Center will begin coming up with designs and cost estimates for the material; as part of their program we cannot pay for students time. We can only pay for materials.
- Had another meeting with the developers of the potential Hotel to ensure that the work the city is will be doing in Phase I will be coordinated with the work they need to do when they begin construction at 101 Brady Street. The developers now have our CAD drawings for the street work and are civil engineering their hotel placement and curb cuts to line up with our street work.
- Agreed to a small redesign of the sewer relocation at the corner of Riverfront Park and Mahan Park.
- Authorized Consumers Energy to begin designing their electrical load for the new street light system.

Work planned for upcoming month.

- The contractor will continue with installing the sewer main and water main along Brady Street and Hubbard Street (between Locust and Water Streets).

NOTE: All work is weather dependent and relies on various material vendors



Items of Note

Following are items of note or unplanned issues the project team is working to address or actively tracking:

- Staff is still discussing the idea of installing removeable bollards at the entrance to the Riverfront Park off Hubbard and Brady Street to better control vehicle access and protect pedestrians during events on the riverfront.
- Staff is still discussing the idea of installing conduit in Mahan Park to place speakers up at the street, so people can better hear amplified speech when an event is occurring in the Mahan Gazebo.
- Staff is still discussing the acquisition and installation of tables, chairs, benches, and bicycle racks with the appropriate advisory committees.
- Staff agreed to a small redesign of the sewer relocation at the corner of Riverfront Park and Mahan Park.



Project Budget Report

Payment History by Month

Fund ID	Fund Name	FY22 thru Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	TOTAL
202	Streets (Major)	\$ 1,573	\$ -	\$ -	\$ -	\$ 16,994	\$ -	\$ -	\$ -	\$ 18,567
203	Streets (Minor)	\$ 154,521	\$ 2,020	\$ 145,210	\$ 3,975	\$ 109,367	\$ -	\$ -	\$ -	\$ 415,092
590	Sewer	\$ 96,614	\$ -	\$ -	\$ -	\$ 45,102	\$ -	\$ -	\$ -	\$ 141,717
591	Water	\$ 165,123	\$ -	\$ -	\$ -	\$ 38,055	\$ -	\$ -	\$ -	\$ 203,178
	TOTAL	\$ 417,832	\$ 2,020	\$ 145,210	\$ 3,975	\$ 209,518	\$ -	\$ -	\$ -	\$ 778,554

2023 DTSS: Expenditures

Vendor	Job Description	Agreement Amount 2022	202 Major Streets	203 Local Streets	590 Sewer	591 Water	Change Orders	Amended Total (A)	Amount Paid to Date (B)	Balance Remaining (A-B)
Abonmarche	Study/Investigation	\$ 12,440	\$ -	\$ 12,440	\$ -	\$ -	\$ -	\$ 12,440	\$ 12,440	\$ -
Abonmarche	Design Engineering	\$ 278,000	\$ -	\$ 121,422	\$ 60,058	\$ 96,520	\$ -	\$ 278,000	\$ 278,000	\$ -
S&P:	Bond Rating	\$ 13,500	\$ -	\$ 5,805	\$ 2,970	\$ 4,725	\$ -	\$ 13,500	\$ 13,500	\$ -
Dickenson Wright PLLC:	Bond Counsel	\$ 58,750	\$ 1,573	\$ 5,267	\$ 17,000	\$ 34,910	\$ -	\$ 58,750	\$ 58,750	\$ -
MFCI, LLC:	Bond-Finacial Advisors	\$ 48,635	\$ -	\$ 19,950	\$ 12,750	\$ 15,935	\$ -	\$ 48,635	\$ 48,635	\$ -
Kaechele Publications:	Bond Public Notice	\$ 4,940	\$ -	\$ -	\$ 2,470	\$ 2,470	\$ -	\$ 4,940	\$ 4,940	\$ -
Treasury Filing Fees:	Bond Filing	\$ 1,538	\$ -	\$ 538	\$ 400	\$ 600	\$ -	\$ 1,538	\$ 1,538	\$ -
Consumers	Lighting	\$ 300,000	\$ -	\$ 300,000	\$ -	\$ -	\$ -	\$ 300,000	\$ 66,752	\$ 233,248
TBD	Amenities	\$ 200,000	\$ -	\$ 200,000	\$ -	\$ -	\$ -	\$ 200,000	\$ -	\$ 200,000
Other Expenses	USPS, Orbis	\$ 2,049	\$ -	\$ 2,049	\$ -	\$ -	\$ -	\$ 2,049	\$ 2,049	\$ -
Abonmarche	Construction Engineering	\$ 530,800	\$ 44,228	\$ 205,457	\$ 129,780	\$ 155,310	\$ -	\$ 534,775	\$ 7,066	\$ 527,709
Milbocker	Construction	\$ 6,944,419	\$ 832,013	\$ 2,061,123	\$ 1,846,721	\$ 2,204,562	\$ -	\$ 6,944,419	\$ 284,884	\$ 6,659,535
	Project Totals	\$ 8,395,071	\$ 877,814	\$ 2,934,050	\$ 2,072,149	\$ 2,515,032	\$ -	\$ 8,399,046	\$ 778,554	\$ 7,620,492



Project Budget Progress Report

1. Invoices received/paid during the current month.

Abonmarche - Invoice# 145270 - \$3,091.25

Consumers Energy – Invoice#9324578125 - \$66,752.00

Milbocker & Sons - Pay Estimate#002 - \$139,674.82

2. Change orders received during the current month.

None



City of Allegan
City Manager's Office
269.673.5511
231 Trowbridge Street
Allegan, MI 49010

MEMORANDUM

TO: Allegan City Council
FROM: Michaela Kleehammer, City Clerk
REVIEWED BY: Joel Dye, City Manager
DATE: April 10, 2023

SUBJECT: Request to review and discuss proposed changes to Chapters 5 and 7 of the City of Allegan Code of Ordinances.

Action Requested:

It is requested that City Council reviews and discusses the proposed changes to Chapters 5 and 7 of the City of Allegan Code of Ordinances.

Background:

In Spring 2022, three members of City Council began to meet with city staff to review all chapters of the Allegan Code of Ordinances. As chapters were reviewed, staff forwarded the chapters to the city's attorney Nick Curcio for his review. In January 2023, city staff began meeting with Nick Curcio biweekly to discuss changes proposed by the subcommittee of City Council and prepare the chapters to be presented to the entire City Council for review.

At this time, chapters 5 and 7 have been fully reviewed by the city attorney and staff and are ready for Council review and discussion. Each chapter will have a summary of the changes made, a clean ordinance to implement the changes, and a redlined version of the chapter to show what sections of the chapter were changed.

Attachment(s):

Chapter 5 Summary, Clean Ordinance, and Redlined Version
Chapter 7 Summary, Clean Ordinance, and Redlined Version

The proposed amendments to Chapter 5 of the City Code would:

1. Simplify the “purpose” section to indicate that the purpose of the chapter is to facilitate and coordinate the review and approval of special events in the City.
2. Define “special event” to mean a preplanned event of 1 or more days either: (1) held on City property; or (2) held on private property where the event will draw more than 500 people or where City services (e.g., traffic control, police presence, etc.) will be required. The term “special event” replaces the fairly vague term “entertainment,” as used in the existing ordinance.
3. Generally require the sponsor of a special event to obtain a permit from the City Manager. This is a change from the current ordinance, under which the approval process went through the City Council. However, under the current ordinance, no permit is needed for events with less than 5,000 people in attendance. In other words, the new proposed ordinance would require a broader range of events to obtain a permit, but would make the process for obtaining a permit more streamlined.
4. Establish exceptions to the permitting requirement for:
 - Events hosted by the city or public schools;
 - Events located at the Allegan County Fairgrounds;
 - Gatherings within a reserved area of a City park; and
 - Sporting events within a sport-specific facility in a City park.
5. Establish specific criteria for the approval of permit applications, based on best practices from other communities. The criteria are intended to mitigate adverse impacts on the public or overcommitment of City resources.
6. Require applicants to indemnify the City for losses incurred by the City as a result of the event, unless such losses are attributable to the City’s sole negligence.
7. Repeal the City’s tattoo licensing ordinance, which is duplicative of a state licensing scheme. Make minor modifications to the adoption of the International Property Maintenance Code to align with current practices.

**CITY COUNCIL
CITY OF ALLEGAN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE CHAPTER 5 OF THE CITY OF ALLEGAN,
CODE OF ORDINANCES, ENTITLED “AMUSEMENTS AND
ENTERTAINMENTS,” TO PROVIDE AN APPROVAL PROCESS FOR SPECIAL
EVENTS AND TO ELIMINATE TATOO PARLOR LICENSING
REQUIREMENTS THAT ARE DUPLICATIVE OF STATE LAW**

The City of Allegan ordains:

Section 1. Amendment. Chapter 5 of the City of Allegan, Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 5-1. Purpose and intent.

The purpose of this chapter is to facilitate and coordinate the review and approval of special events within the City, thereby allowing the City to work with organizers of proposed events to reduce adverse impacts such as noise, traffic, and parking problems, while guaranteeing the public’s rights to free speech and assembly.

Sec. 5-2. Special event defined.

For purposes of this chapter, “special event” means:

- (a) A preplanned, single gathering or event or series of related, consecutive daily gatherings or events of an entertainment, cultural, recreational, political, or sporting nature, to be held in whole or in part on City property; or
- (b) A preplanned, single gathering or event or series of related, consecutive daily gatherings or events of an entertainment, cultural, recreational, political, or sporting nature to be held wholly on non-City property, where:
 - (1) The event is expected to draw 500 or more people as participants, attendees or spectators; or
 - (2) The person promoting or sponsoring the event requests or requires one or more City services, including public safety equipment, event sanitation, law enforcement presence, or traffic management.

Special events may include festivals, fundraisers, parades, runs, walks, relays, marathons, and other similar events.

Sec. 5-3. Permit required.

- (a) Except as provided in subsection (b) below, any person desiring to hold, sponsor or promote a special event shall apply for and obtain a special event permit from the City Manager.
- (b) Special event permits are not required for the following:
 - (1) An event put on, conducted, or otherwise under the supervision of the City or the public schools;
 - (2) An event located entirely on the premises of the Allegan County Fairgrounds;
 - (3) A gathering located in an area in a City that is reservable under applicable park policies (although such gathering may be subject to other regulations pursuant to such policies).

- (4) A sporting event located in a sport-specific facility (*i.e.*, baseball and soccer field, basketball court, etc.) in a City park (although such gathering may be subject to other regulations pursuant to City park policies).

Sec. 5-4. Application.

Applicants for a permit under this chapter must file with the City Clerk an application in writing on a form furnished by the City Clerk, which shall, at a minimum, include the following information, and shall be accompanied by payment of the applicable fee:

- (a) The name and permanent address of the applicant, as well as the local address of the applicant, and phone numbers at which the applicant can be contacted during regular business hours;
- (b) If the applicant is an agent, employee or officer of another person for whom the application is made, the applicant shall give the same information for the principal as in subsection (a) of this section, and the principal shall also designate a registered agent within the state upon whom process and all notices may be served, with the name, address and telephone number thereof, indicating the relation between applicant and principal;
- (c) The same information shall be provided for all the sponsor(s), promoter(s), manager(s) and performer(s) of the special events.
- (d) The place where the special event is to be held;
- (e) The number of persons who will participate in, be spectators for or otherwise attend the special event, including the peak numbers anticipated to be at the special event at any one (1) time;
- (f) The number, location and layout of the available parking (exclusive of public parking) to service the special event.
- (g) The date of the proposed special event and a brief description of the event;
- (h) Any proposed precautions to be taken, police protection or fire protection to be furnished or needed. This must be a detailed appraisal of all needs to minimize the impact of the special event upon the City.
- (i) The public purpose, if any, to be advanced by or as a result of the special event.
- (j) An agreement to pay any costs incurred by the City as a result of the special event unless such cost recovery (or portion thereof) is waived in writing by the City Manager.
- (k) Such other information as may, from time to time, reasonably be requested by action of the City.

Sec. 5-5. Approval of Application.

The City Manager shall issue a special event permit as provided for in this chapter when, from a consideration of the special event permit application and such other information as may otherwise be obtained, the City Manager finds that:

- (a) The application allows for ample opportunity to properly plan and prepare for the special event;
- (b) Police, fire, other City services or the City's residents will not be unduly burdened or adversely affected by the conduct of the special event;
- (c) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance;
- (d) The conduct of the special event will meet the requirements of the City for the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;
- (e) The conduct of the special event will not require the diversion of so great a number of City police

officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the City;

- (f) The concentration of persons, animals or vehicles at the special event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such special event areas;
- (g) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;
- (h) The organizer has secured police, fire and medical protection based on the standards in this chapter and as required by the City;
- (i) No event is scheduled elsewhere in the City where the police, fire or medical resources required for that event are so great that the deployment of public safety services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and property; and
- (j) The City Manager is aware of no other information that would prevent it from making a fair determination that a permit should be issued.

The City Manager may impose conditions on the issuance of a special event permit when needed to protect the public health, safety, or welfare.

Sec. 5-6. Fee.

The fee for a permit under this chapter shall be set from time to time by resolution of the City Council. However, in addition to any such fee, which shall be paid in full prior to consideration of the application, the applicant shall pay all costs actually, reasonably incurred by the City as a result of the special event, including any costs of personnel, equipment, administration, outsourcing or other costs. The City Manager may waive the fee or collection of costs for a special event sponsored by a nonprofit organization in the City that is judged to be a community-wide event or which result in the contribution of funds to a project or use from which the general public will directly benefit.

Sec. 5-7. Bond, surety, and indemnification.

- (a) Unless waived by the City Manager, a bond or other surety shall be required to secure payment of any claim or damage arising out of the special event to reimburse the City for actual, reasonable expenses incurred in protecting the health, safety and welfare of the public or persons attending the special event.
- (b) Such bond and/or other surety may be in cash and in an amount to reasonably secure the City, the public and private owners as well as the county and state, if their help is necessary, from any damage or personal injuries or liability and any added costs rendered necessary by the special event, or by a bond with sureties satisfactory to the City, and personal liability and property damage policies may be required if necessary to protect the aforesaid persons.
- (c) As a condition of the issuance of a special event permit, the event sponsor must agree to defend, indemnify and save harmless the City, its appointed and elected officers and employees from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the City, its elected officials or employees for damages because of personal or bodily injury, including death at any time therefrom, sustained by any person or persons and on account of damage to property or loss therefrom, arising out of any activity under or in connection with the special event, except only such injury as shall have been occasioned by the sole negligence of the City, its appointed or elected officers or employees.

Sec. 5-8. Term; transfer; renewal.

The permit under this chapter shall set out the length of time it is valid and shall not be assignable or renewable.

Sec. 5-9. Revocation.

(a) Permits issued under the provisions of this chapter may be revoked by the City Manager after notice and hearing before the City Manager for any of the following causes:

- (1) Fraud, misrepresentation or false statement in the application for the permit or during any meeting to consider issuance of the permit;
- (2) Fraud, misrepresentation or false statement made in the course of carrying out the special event;
- (3) Any violation of this chapter or any condition of any permit issued pursuant to this chapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude;
- (5) Conducting the special event in an unlawful manner or in such manner as to constitute a breach of peace, or to constitute a menace to the health, safety or general welfare of the public; or
- (6) The permittee has failed to comply with any of the terms or conditions of this chapter, the special event permit, or any other City ordinance, rule or regulation.

(b) Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least five (5) days prior to the date set for hearing, unless the City Manager determines an emergency requiring a shorter period.

Section 2. Publication and Effective Date. The City Clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect upon publication.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This is a true and complete copy of Ordinance No. ____ adopted at a regular meeting of the Allegan City Council held on _____, 2023.

Teresa Galloway, Mayor

Michaela Kleehammer, Clerk

Introduced: _____, 2023

Adopted: _____, 2023

Published: _____, 2023

Effective: _____, 2023

**CITY COUNCIL
CITY OF ALLEGAN
ALLEGAN COUNTY, MICHIGAN**

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- (3) A gathering located ~~within a reserved~~ in an area in a City that is reservable under applicable park policies (although such gathering may be subject to other regulations pursuant to ~~City parks~~ such policies).
- (4) A sporting event located in a sport-specific facility (*i.e.*, baseball and soccer field, basketball court, etc.) in a City park (although such gathering may be subject to other regulations pursuant to City park policies).

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- (b) If the applicant is an agent, employee or officer of another person for whom the application is made, the applicant shall give the same information for the principal as in subsection (a) of this section, and the principal shall also designate a registered agent within the state upon whom process and all notices may be served, with the name, address and telephone number thereof, indicating the relation between applicant and principal;
- (c) The same information shall be provided for all the sponsor(s), promoter(s), manager(s) and performer(s) of the special events.
- (d) The place where the special event is to be held;
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- (i) The public purpose, if any, to be advanced by or as a result of the special event.
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- (b) Police, fire, other City services or the City's residents will not be unduly burdened or adversely affected by the conduct of the special event;
- (c) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance;

- (d) The conduct of the special event will meet the requirements of the City for the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;
- (e) The conduct of the special event will not require the diversion of so great a number of City police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the City;
- (f) The concentration of persons, animals or vehicles at the special event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such special event areas;
- (g) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;
- (h) The organizer has secured police, fire and medical protection based on the standards in this chapter and as required by the City;
- (i) No event is scheduled elsewhere in the City where the police, fire or medical resources required for that event are so great that the deployment of public safety services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and property; and
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- (a) Unless waived by the City Manager, a bond or other surety shall be required to secure payment of any claim or damage arising out of the special event to reimburse the City for actual, reasonable expenses incurred in protecting the health, safety and welfare of the public or persons attending the special event.
- (b) Such bond and/or other surety may be in cash and in an amount to reasonably secure the City, the public and private owners as well as the county and state, if their help is necessary, from any damage or personal injuries or liability and any added costs rendered necessary by the special event, or by a bond with sureties satisfactory to the City, and personal liability and property damage policies may be required if necessary to protect the aforesaid persons.
- (c) As a condition of the issuance of a special event permit, the event sponsor must agree to defend, indemnify and save harmless the City, its appointed and elected officers and employees from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the City, its elected officials or employees for damages because of personal or bodily injury, including death at any time therefrom, sustained by any person or persons and on account of damage to property or loss therefrom, arising out of

any activity under or in connection with the special event, except only such injury as shall have been occasioned by the sole negligence of the City, its appointed or elected officers or employees.

Sec. 5-8. Term; transfer; renewal.

The permit under this chapter shall set out the length of time it is valid and shall not be assignable or renewable.

Sec. 5-9. Revocation.

(a) Permits issued under the provisions of this chapter may be revoked by the City Manager after notice and hearing before the City Manager for any of the following causes:

- (1) Fraud, misrepresentation or false statement in the application for the permit or during any meeting to consider issuance of the permit;
- (2) Fraud, misrepresentation or false statement made in the course of carrying out the special event;
- (3) Any violation of this chapter or any condition of any permit issued pursuant to this chapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude;
- (5) Conducting the special event in an unlawful manner or in such manner as to constitute a breach of peace, or to constitute a menace to the health, safety or general welfare of the public; or
- (6) The permittee has failed to comply with any of the terms or conditions of this chapter, the special event permit, or any other City ordinance, rule or regulation.

(b) Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least five (5) days prior to the date set for hearing, unless the City Manager determines an emergency requiring a shorter period.

Section 2. Publication and Effective Date. The City Clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect upon publication.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This is a true and complete copy of Ordinance No. ____ adopted at a regular meeting of the Allegan City Council held on _____, 2023.

Teresa Galloway, Mayor

Michaela Kleehammer, Clerk

Introduced: _____, 2023
Adopted: _____, 2023
Published: _____, 2023
Effective: _____, 2023

The proposed amendments to Chapter 7 of the City Code would:

1. Rename the chapter “Buildings and Property Maintenance” and consolidate the most frequently used property maintenance provisions (e.g., the IPMC, the blight ordinance, and the long grass ordinance) into a single chapter.
2. Eliminate enforcement and penalty provisions that are redundant of those found in Chapter 1.
3. Simplify the language required to assume responsibility for enforcing the Michigan Construction Code within the City. Current provisions addressing each individual component code (electrical, plumbing, etc.) are unnecessary.
4. Make minor modifications to the adoption of the International Property Maintenance Code (IPMC) to align with current practices.
5. Make minor modifications to the blight ordinance by adding commonly used provisions from the IPMC. This will give code enforcement officers the ability to cite the blight ordinance for most violations. Citing the IPMC is more cumbersome, but the IPMC is still useful for some purposes (e.g., rental inspections).
6. Add subsection captions to the rental inspection ordinance for consistency of formatting.
7. Eliminate regulations regarding building demolition, which is regulated under the Michigan Construction Code.

**CITY COUNCIL
CITY OF ALLEGAN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE CHAPTER 7 OF THE CITY OF ALLEGAN,
CODE OF ORDINANCES TO CONSOLIDATE AND PROVIDE UPDATED
REGULATIONS PERTAINING TO BUILDINGS AND PROPERTY
MAINTENANCE**

The City of Allegan ordains:

Section 1. Amendment. Chapter 7 of the City of Allegan, Code of Ordinances is hereby renamed “Buildings and Property Maintenance” and amended to read in its entirety as follows:

**Article I
Construction Code**

Sec. 7-1. Administration and enforcement of Michigan Construction Code.

The city has assumed responsibility for the administration and enforcement of the Michigan Construction Code, including the building, electrical, plumbing and mechanical codes, throughout its corporate limits. The city’s building official is principally charged with the administration and enforcement of the codes. Any fees provided for in the codes shall be as prescribed by resolution of the city council.

**Article II
Rental Registration**

Sec. 7-5. Registration of the operation of rental units, rental dwellings, multiple dwellings and rooming houses.

- (a) *Definitions.* These words and phrases shall have the following meanings when used in this article:
- (1) *Building official* shall mean the city’s building official and his or her designees.
 - (2) *Dwelling* shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing shall not be regarded as a dwelling.
 - (2) *Dwelling unit* shall mean one (1) room or suite of two (2) or more rooms providing complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
 - (3) *Rental unit* shall mean any dwelling or dwelling unit, multiple dwelling or rooming house occupied by a person or persons who is/are not the owner(s) of the property in which the dwelling or dwelling unit is located.
- (b) *Registration required.* No person shall operate a rental unit unless he holds a current registration issued by the building official in his name for the specifically named dwelling, multiple dwelling or rooming houses.
- (c) *Required inspection.* No rental unit may be registered or re-registered unless it is first inspected by the building official or designee. If the rental unit does not comply with all applicable federal, state, and local requirements, including the city’s blight ordinance and other applicable property maintenance regulations, the building official or designee may refuse to register or re-register the

rental unit, or may register or re-register the rental unit subject to certain specified conditions which shall be met in order for the registration or re-registration to remain valid.

- (d) *Registration validity.* Except as set forth in subsections (l), every registration shall be issued for a period of three (3) years unless sooner revoked, and may be renewed for successive periods of three (3) years. Registrations shall be issued for those units and dwellings which conform to all federal, state, and local requirements, including the city's blight ordinance and other applicable property maintenance regulations.
- (e) *Building official.* The building official is hereby authorized, upon application therefore, to issue new operating registrations, and renewals thereof, in the names of applicant owners or operators of rental dwellings, multiple dwellings and rooming houses. No such registrations shall be issued unless such premises for which the registration is sought, is found, after inspection, to meet all requirements of this article and applicable rules and regulations pursuant thereto.
- (f) *Application.* No registration shall be issued or renewed unless the applicant owner or operator has first made application therefore on an application form provided by the building official. The building official shall develop such forms and make them available to the public.
- (g) *Consent to inspections.* No registration shall be issued or renewed unless the applicant owner or operator agrees in his application to such inspections as the building official may require to determine whether the premises is in compliance with the provisions of this article and with applicable rules and regulations pursuant thereto.
- (h) *Registration and inspection fee.* No registration shall be issued or renewed unless the completed application form is accompanied by the payment of a registration and inspection fee as prescribed in the officially adopted resolutions of this city.
- (i) *Required information.* No registration shall be provided or renewed unless the owner annually provides the building official with the current occupant name, indicating dwelling unit address, phone number, as well as the owner's name, address and telephone number. The owner may designate in writing to the building official the name of an agent for the receipt of services of notice that there is a violation of the provisions of this article and for service of process pursuant to this article. Whenever the name, address, or telephone number of the occupant, owner, or his agent changes such information shall be provided to the building official immediately.
- (j) *Renewals.* All applications for a registration renewal must be submitted to the building official, or his designee, thirty (30) days prior to the date on which the registration expires. The city manager may extend the deadline for submission of the registration application.
- (k) *Late filing fee.* For any rental dwelling for which a timely application has not been filed, a late filing fee per unit shall be charged. No registration shall be issued until all filing fees have been paid. Prior to charging a late fee, the last known owner of record shall be notified in writing at his last known address of the need for a registration application, and given forty-eight (48) hours to provide the city with the information necessary for registration.
- (l) *Conducting of inspection.* Following the receipt of an application for registration, or renewal thereof, accompanied by the filing fee, if applicable, the building official or his authorized agent shall make an initial interior and exterior inspection. Upon initial inspection, if the building official finds that the dwelling in question meets all requirements of this article and all other applicable ordinances of the city and there are no outstanding violation notices concerning the dwelling, the building official shall direct that the registration or registration renewal issued for such dwelling be for a period of three (3) years. If the building inspector upon initial inspection finds that the interior or exterior of the unit in question does not meet all the requirements of this article and all other applicable ordinances of the city, the owner, agent, or landlord, of the rental dwelling shall be

notified in writing of the nature of the violations and the date by which the violations must be corrected. Upon finding that each unit and the interior and exterior of the dwelling meets all the requirements of this article and all other applicable ordinances of the city, the building official shall issue a registration for each dwelling.

- (m) *Transfer.* If ownership of the dwelling is transferred during the time that the registration is valid, the registration shall transfer to the new owner upon receipt by the building official of the name, address and telephone number of the new owner. A registration that has been transferred shall expire or be renewed at the same time as if it had not been transferred.
- (n) *Period for registration of rental units.* Rental units required to be registered pursuant to this article shall comply with the following requirements, to the extent applicable:
 - (1) Each newly constructed or newly converted rental unit shall be registered within thirty (30) days after the city issues a certificate of occupancy or an occupancy permit.
 - (2) Each rental unit which is sold, transferred or otherwise conveyed in whole or in part shall be re-registered within thirty (30) days after the date of the deed, land contract or other instrument of conveyance.
 - (3) Each newly converted rental unit which is so converted without the issuance of a certificate of occupancy or an occupancy permit shall be registered within thirty (30) days after the date the rental unit is first occupied for rental purposes.
 - (4) Each rental unit shall be scheduled for inspection and re-registered within thirty (30) days after the expiration of its then current registration.
- (o) *Supplemental inspection.* In addition to the inspection required in subsection (d) above when a rental unit is registered or re-registered, the building official or designee may also inspect a rental unit upon the occurrence of any of the following events:
 - (1) Upon receipt of a complaint from an owner or an occupant of the rental unit that it is in violation of this article;
 - (2) Upon receipt of a complaint from any law enforcement department or other public agency or any other individual having personal knowledge that the rental unit is in violation of this article;
 - (3) Upon the building official or designee's reviewing the exterior of the rental unit and determining that there is probable cause to believe that the rental unit is in violation of this article;
 - (4) Upon receipt of information that the rental unit is not currently registered as required by this article;
 - (5) Upon being directed by resolution of the city council to initiate a city-wide rental unit inspection program; and
 - (6) Upon receipt of a request from an owner of a rental unit for an advisory inspection.
- (p) *Investigation in response to complaint.* Whenever a complaint is filed with the building official alleging that there is a violation of this article or related provisions of this article, the building official or his designee shall investigate the complaint. Such investigation shall include, if necessary, inspection of the interior of the dwelling. Prior to inspection of the interior of a dwelling, the building official shall notify the owner, agent, or landlord, and also the tenant of the time and date of the inspection at least forty-eight (48) hours prior to said inspection. The building official does not need to give prior notice for inspections of the exterior, and the building official shall have the right to conduct unannounced exterior inspections during daylight hours of any day, except for Saturday and Sunday. All complaints requesting an interior inspection of a rental dwelling must be

dated and signed by the owner or occupant specify the nature of the alleged violation and the means by which the complainant acquired direct, first-hand knowledge of the alleged violation.

- (q) *Scheduling of inspection.* Prior to occupancy by tenants, all rental units must have interior and exterior inspections completed by the building official or his authorized agent, and must be issued a registration. Such inspection shall be scheduled within ten (10) working days following notification by the owner to the building official that the building is ready for inspection.
- (r) *Appeals.* An aggrieved property owner, agent, landlord or city resident may appeal any order, requirement, determination or decision of the building official pertaining to the registration of rental dwellings. A fee shall be paid for each appeal to the construction board of appeals.
- (s) *Notices of violation.* Whenever, upon inspection of the registered premises, or of the records required to be kept hereunder, the building official finds that conditions or practices exist which are in violation of the provisions of this article or of any applicable rules and regulations pursuant thereto, he shall serve the owner or operator with notice of the violation in the manner provided by:
 - (1) Mailing the notice to the owner or operator by first class mail; or
 - (2) Personally delivering the notice to the owner or operator.
- (t) *Re-inspections.* At the end of the time he has allowed for correction of any violation cited, the building official or designee shall re-inspect the premises, and if he determines that such conditions have not been corrected, he may issue an order suspending the registration.
- (u) *Orders of suspension; reconsideration.* Any person whose license to operate a rental dwelling, multiple dwelling or rooming house, has been suspended, shall be entitled to a reconsideration of the order or a formal hearing, in the manner provided by this division. If no request for reconsideration or petition for hearing reaches the building official within twenty-one (21) days following the issuance of the order of suspension, the registration shall be revoked, except that prior to revocation any person whose registration has been suspended may request re-inspection upon a showing that the violation or violations cited in the notice have been corrected.
- (v) *Reissuance following successful reinspection.* If, upon re-inspection, the building official finds that the premises in connection with which the notice was issued is now in compliance with this division and with applicable rules and regulations issued pursuant thereto, he shall reinstate the registration. A request for re-inspection shall not extend the suspension period, unless the building official grants the request.
- (w) *Establishing registration and inspection fees.* The city council shall establish by resolution any fee or fees to be charged for the registration and/or inspection of each rental unit. Any such fee may be collected by the building official or designee.
- (x) *Payment of registration fees.* Any registration fee shall be paid by the owner(s) of each rental unit to the city building official. In the event a rental unit has more than one owner, each owner shall be jointly and severally liable for the registration fee. A late payment charge may be established by the city council if the registration fee is not paid within thirty (30) days after its billing date.
- (y) *Payment of inspection fees.* All inspection fees under this article shall be the responsibility of the owner(s) of each rental unit, except as follows:
 - (1) If the inspection is based upon a complaint filed by an owner of the rental unit, and the inspection reveals to the building official that a violation was caused by the occupant(s)/tenants of the rental unit, the occupant/tenant shall be responsible for payment of the inspection fee (if the building official cannot definitely determine that the violation was caused by the occupant(s) of the rental unit, then the owner(s) shall be liable for the inspection fee);

- (2) If the inspection is based upon a complaint made by the person other than the owner, and the inspection reveals to the building official no violation of this article, the complainant(s) shall be responsible for the payment of the inspection fee; or
- (3) The inspection is part of a city-wide rental unit inspection program initiated by the city council, in which case the city shall be responsible for the inspection fee.

In the event a rental unit has more than one (1) owner and the owners are liable for the inspection fee, or in the event a rental unit has more than one (1) occupant and the occupants are liable for the inspection fee, or in the event more than one (1) complainant files a complaint and the complainants are liable for the inspection fee, each owner or each occupant or each complainant (as the case may be) shall be jointly and severally liable for the inspection fee. A late payment charge may be established by the city council if the inspection fee is not paid within thirty (30) days after the billing date.

- (z) *Lack of valid registration.* No owner shall lease, rent or otherwise allow a rental unit to be occupied unless the rental unit is properly and currently registered as required by this article.
- (aa) *Order to vacate.* No person shall occupy a rental unit if the building official or designee orders that it be vacated due to one (1) or more violations of this article.
- (bb) *Termination of registration.* If the owner(s) of a rental unit fail to comply (or to force the occupant(s) of such rental unit to comply) with a notice received from the building official, or if the owner(s) or occupant(s) (as the case may be) of a rental unit fail to pay within thirty (30) days a billed and outstanding registration fee and/or inspection fee assessed pursuant to this article, the building official may suspend registration for such rental unit. In such event, the building official may post the rental unit and request the city's legal counsel to proceed at law to order the premises in violation to be vacated. Also in the event the building official suspends the registration for a rental unit, the building official shall notify the occupant(s) thereof that the occupant(s) may pay rent into a self-established escrow account until vacating the rental unit or until the registration of the rental unit is either reinstated or renewed. A terminated but not yet expired registration shall be reinstated for a rental unit once the requirements of the building official's notice are met and all outstanding registration fees and inspection fees and late payment charges thereon have been paid in full.
- (cc) *Administrative liability.* No officer, agent, employee, contractor or member of the city council shall be personally liable for any damage that may accrue to any person as a result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this article.
- (dd) *Savings clause.* This article shall not affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause of action acquired or existing, under any portion of the Code of Ordinances superseded by this article; neither shall any just or legal right or remedy be lost, impaired or affected by this article.
- (ee) *Enforcement.* The city council shall designate by resolution the person whose duty it shall be to administer and enforce the provisions of this division within the city.

Article III **Property Maintenance**

Division 1 – Blight

Sec. 7-11. Short title.

This division shall be known and may be designated as “The Blight Ordinance of the City of Allegan.”

Sec. 7-12. Definitions.

As used in this division, the following terms are defined below:

- (a) *Blighted structure or building.* Any dwelling, garage, accessory or outbuilding, or any factory, shop, store, office building, warehouse, fence, or any other structure or part of a structure which:
 - (1) Because of fire, wind, other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it was originally intended;
 - (2) Is partially completed and which is not presently being constructed under an existing, valid building permit issued by or under the authority of the city;
 - (3) Is not structurally sound, weather-tight, waterproof or vermin-proof;
 - (4) Is not covered by a water resistant paint or other waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration;
 - (5) Causes or tends to cause devaluation of the subject property or other properties in the area; or
 - (6) Has any of the following conditions:
 - (A) Peeling paint.
 - (B) Sagging and deteriorating roof.
 - (C) Missing and/or damaged siding.
 - (D) Broken or deteriorating windows or doors.
 - (E) Unfinished exterior.
 - (F) Collapsing porch or deck.
 - (G) Cracked and broken foundation/chimney.
 - (H) Graffiti.
 - (7) Has veneer, cornices, belt courses, corbels, trim, wall facings or other similar decorative features not properly anchored or that are anchored with connections not capable of supporting nominal loads and resisting all load effects.
- (b) *Building material.* Any lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, cement, nails, screws, or other materials commonly used in the construction or repair of any buildings or structures.
- (c) *Enforcement officer.* The city manager, city building inspectors, community development coordinator, and any other individual that has been given enforcement duties by the city manager.
- (d) *Graffiti.* Any mark or marks on any surface or structure made without the prior permission of the property owner and made in any manner, including but not limited to, writing, inscribing, drawing, tagging, sketching, spray-painting, painting, etching, scratching, carving, engraving, scraping, or attaching. Chalk marks on sidewalks are not graffiti.
- (e) *Inoperable Vehicle.* Any motor vehicle which is inoperative for any reason such as being in a state of disassembly, disrepair, stripped, dismantled or which cannot be operated under its own power or cannot function as it was intended and designed to function legally on the roadway, but shall exclude vehicles in process at auto sales and dealership service facilities and auto engine and

body repair shops which are to be repaired and made operable within ninety (90) days

(g) *Issuance of the notice.* Any of the following events:

- (1) Mailing the notice to the responsible party's last known address by first class mail;
- (2) Personal delivery of the notice to the responsible party;
- (3) The responsible party's receipt of the notice by email, as indicated in a notification of receipt; or
- (4) The reading of the notice to the responsible party over the phone.

(h) *Junk.* Any abandoned, discarded, unusable objects or equipment, any object or equipment unused for its originally intended purpose, including, but not limited to, furniture, furniture intended for indoor use which is placed outdoors, stoves, refrigerators, freezers, cans, barrels, farm implements, parts of motor vehicles, machinery, cloth, rubber, bottles, any metals, boxes, cartons or crates.

(i) *Responsible party.* A person who violates any of the provisions of this division, whether as owner, occupant, lessee, agent, operator, servant, or employee, except as herein otherwise provided.

(j) *Trash and rubbish.* Any and all forms of debris not herein otherwise identified, except domestic refuse stored in appropriate containers prior to periodic collection for proper disposal and domestic refuse stored in appropriate containers for composting purposes. The term "trash, rubbish or refuse" shall also include any combustible and noncombustible waste material, including, but not limited to, animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, leaves, brush, tree limbs, wood, lumber, grass or other yard waste.

Sec. 7-13. Blighted structures or buildings prohibited.

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, building, dwelling, garage, outbuilding, factory, shop, store or warehouse in the city.

Sec. 7-14. Blighted exterior and maintenance requirement of property.

It shall be unlawful for any person to fail to improve and maintain all property under the person's control so as to comply with the following minimum requirements:

- (a) All exterior property areas shall be properly maintained in a clean and sanitary condition, free from debris, brush, severed tree limbs, junk, rubbish, physical hazards, rodent harborage and infestation.
- (b) All stored firewood shall be in neat, orderly stacks, unless shielded from the ground level view from all adjoining properties.
- (c) The storage and accumulation of any building material in a visible exterior area shall only be for a period that is reasonably necessary for the future use of such materials, which shall in no event be longer than 90 days. Building materials must be piled off the ground so as not to become a suitable environment for rats, rodents or similar vermin.
- (d) In no case shall usable or unusable machinery, building materials, or other items be stored on a permanent basis in a truck trailer or other type of trailer, with or without its wheels, unless the trailer is enclosed.
- (e) Scaffolding may remain on a building only for a period that is reasonably necessary for the completion of the construction or maintenance activities for which it is erected, which shall in no event be longer than 90 days or the length of the related building permit, whichever is longer.

- (f) Conditions or activities that produce disagreeable or obnoxious odors or stenches or dense smoke, noxious fumes, gas, soot, or cinders in unreasonable qualities are prohibited.
- (g) Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
- (h) Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

Sec. 7-15. Enforcement and penalties.

- (a) Any person that violates this division shall be responsible for a municipal civil infraction. Each day that a violation continues shall be deemed to be a separate violation.
- (b) Before commencing enforcement under this division, the enforcement officer shall issue notice to the responsible party charged with the violation, setting forth the violation specifics. The notice shall state the name of the person that the city considers to be the responsible party, and shall specify that failure to remedy the violation within no fewer than 10 days of the issuance of the notice may result in the issuance of a municipal civil infraction citation. The notice shall also state that the recipient has the right to appeal the notice to the construction board of appeals.
- (c) If the responsible party fails to abate the blight within the required time frame, the city may take action to abate the blight and may charge the cost of such abatement to the responsible party. The city treasurer shall bill the cost, plus an administration fee of 25 percent, to the responsible party. Such bills shall become due within 30 days of issuance, and it shall be a violation of this division to fail to pay a bill when due. The city may levy a single-lot special assessment in accordance with this Code of Ordinances as a means of recovering the full cost of abatement.
- (d) Abating the nuisance is not in lieu of, or an alternative to, pursuing the civil infraction in district court. Both civil infraction and abatement of the nuisance may be pursued by the city.

Sec. 7-16. Appeal of notification of violation.

- (a) A person receiving a notification of violation under section 7-5 of this division may appeal to the City Manager or his/her designee by filing an appeal form with the city clerk no later than ten days after the issuance of the notice. The appeal must be submitted on a standard appeal application form available in on the city's website or in the office of the city clerk. The appeal application must include a thorough description of the reason for appealing and shall be accompanied by any fee that may be required by the city council from time to time.
- (b) The City Manager or his/her designee shall set a reasonable time for hearing of the appeal within 30 days from the date on which the application form is received. The construction board of appeals shall provide the appellant, by first class mail, one notice of the public hearing date, time, and location.

- (c) The City Manager or his/her designee shall hear and decide appeals, and review on appeal any order, requirement, decision or determination, made by the enforcement officer in applying the requirements of this division. Upon such appeal, the City Manager or his/her designee may reverse or affirm the enforcement officer's determination in whole or in part.

Sec. 7-17. Interpretation.

Nothing in this division shall be interpreted to prohibit conduct or conditions expressly permitted under the city's zoning ordinance.

Division 2 - Dangerous Buildings

Sec. 7-21. Dangerous building and structures ordinance.

This ordinance is specifically authorized by the housing law, 1917 PA 167, as amended, and shall be known and cited as the City of Allegan Dangerous Buildings Ordinance.

Sec. 7-22. Dangerous building unlawful.

It shall be unlawful for any owner, agent, lessee or party in interest to keep or maintain any building or part thereof which is a dangerous building or structure as defined in this ordinance.

Sec. 7-23. Dangerous building defined.

As used in this ordinance, the term "dangerous building" means any building or structure, residential or otherwise, which has any of the following defects or is in any of the following conditions:

- (a) A door, aisle, passageway, stairway, or other means of exit does not conform to the requirements of the city's fire code.
- (b) A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is significantly impaired and the structure does not meet the minimum requirements of the housing law or the Michigan Building Code for a new building or structure, purpose, or location.
- (c) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (d) A portion of the building or structure has settled to an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the housing law or the Michigan Building Code.
- (e) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (f) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (g) The building or structure is damaged by fire, wind, or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (h) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

- (i) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

Sec. 7-23. Notice of dangerous building.

- (a) The city's building official may issue a notice pursuant to this section upon finding that a building or structure is a dangerous building. The notice shall be served on the owner, agent, or lessee registered with the city. If an owner, agent, or lessee is not registered with the city, the notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.
- (b) The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- (c) The hearing officer shall be appointed by the mayor to serve at his or her pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the city shall not be appointed as hearing officer. The city shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.
- (d) The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

Sec. 7-24. Hearings and other proceedings.

- (a) At the hearing, the hearing officer shall take testimony of the city, the owner of the property, and any interested party. Not more than 5 days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- (b) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner, agent, or lessee shall take and sets a date by which the owner, agent, or lessee shall comply with the order. If the building is a dangerous building under the provisions of this ordinance, the order may require the owner or agent, to bring and maintain the exterior of the building and adjoining grounds into compliance including, but not limited to, the maintenance of lawns, trees, and shrubs.
- (c) If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (b), the hearing officer shall file a report of the findings and a copy of the order with the city's construction board of appeals not more than 5 days after the date for compliance set in the order and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent, or lessee in the manner prescribed in Section 7-23.
- (d) The construction board of appeals shall set a date not less than 30 days after the hearing prescribed in subsection (a) for an appellate hearing on the findings and order of the hearing officer. The construction board of appeals shall give notice to the owner, agent, or lessee in the manner prescribed in Section 7- 23 of the time and place of the hearing. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The

construction board of appeals shall either approve, disapprove, or modify the order. If the construction board of appeals approves or modifies the order, the city shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this subsection. For an order of demolition, if the construction board of appeals of the city determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires expedited demolition exists.

- (e) The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this ordinance. The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure incurred by the city to bring the property into conformance with this ordinance shall be reimbursed to the city by the owner or party in interest in whose name the property appears.
- (f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, the city shall have a lien for the cost incurred by the city to bring the property into conformance with this ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, 1893 PA 206, as amended.
- (g) In addition to the other remedies provided under this ordinance, the city may bring an action against the owner of a dangerous building or structure for the full cost of demolition, of making the building safe, or of maintaining the exterior or grounds adjoining a dangerous building or structure. The city shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

Sec. 7-25. Enforcement of judgment against other assets.

- (a) A judgment in an action brought pursuant to subsection 7-24(g) may be enforced against assets of the owner other than the building or structure.
- (b) The city shall have a lien for the amount of a judgment obtained pursuant to subsection 7-24(g) against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens or encumbrances.

Sec. 7-26. Penalties.

- (a) A person who violates any provision of this dangerous building ordinance shall be responsible for a municipal civil infraction.
- (b) A person who fails or refuses to comply with an order approved or modified by the construction board of appeals is guilty of misdemeanor punishable by imprisonment for not more than 120 days or a fine of not more than \$1,000 or both.

Sec. 7-27. Appeal of circuit court.

An owner or party in interest aggrieved by any final decision of the construction board of appeals may appeal the decision or order to the Allegan County Circuit Court by filing an appeal within 20 days from the date of such decision.

Division 3 – International Property Maintenance Code

Sec. 7-31. Enforcement of the International Property Maintenance Code, 2015 Edition.

- (a) *Adoption of code.* The International Property Maintenance Code, 2015 Edition, including Appendix A, as promulgated and published by the International Code Council, Inc., is adopted by reference as the Property Maintenance Code of the City of Allegan, and made a part of this chapter as if fully set forth in this article, subject to the modifications provided in this article and subject to such further modifications as the city shall adopt from time to time.
- (b) *Definitions.* Whenever the words "city," "jurisdiction" or "governmental unit" are used in the International Property Maintenance Code, 2015 Edition, they shall mean the City of Allegan. Whenever the word "state" is used in the International Property Maintenance Code, 2015 Edition, it shall mean the State of Michigan.
- (c) *Amendments to the Property Maintenance Code.* The International Property Maintenance Code, 2015 Edition, including Appendix A, is amended as follows:
 - (1) *Section 101.1* is amended to read in its entirety as follows:

101.1. Title. These regulations shall be known and may be cited as the "Property Maintenance Code of the City of Allegan," and will be referred to in this article as this "Code."
 - (2) *Section 102.3* is amended to read in its entirety as follows:

102.3. Application of other codes. Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Michigan Building Code, the Michigan Residential Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Electrical Code and the City of Allegan Fire Code. Nothing in this Code shall be construed to cancel, modify or set aside any provision of the City of Allegan Zoning Ordinance.
 - (3) *Section 102.3.1* is added to read in its entirety:

102.3.1. Reference to other codes. Whenever the "International Building Code" or "building code" is referenced in this Code it shall mean the Michigan Building Code. Whenever the "International Mechanical Code" is referenced in this Code it shall mean the Michigan Mechanical Code. Whenever the "International Plumbing Code" is referenced in this Code it shall mean the Michigan Plumbing Code. Whenever the "International Electrical Code" or "NFPA 70" is referenced in this Code it shall mean the Michigan Electrical Code. Whenever the "International Fire Code", "fire code" or "NFPA 25" is referenced in this Code it shall mean the City of Allegan Fire Code. Whenever the "International Zoning Code" is referenced in this Code it shall mean the City of Allegan Zoning Ordinance.
 - (4) *Section 103.1* is amended to read in its entirety as follows:

103.1. General. Whenever the terms "code official" or "building official" are used in this Code it shall mean the designated building inspector of the city.

- (5) *Section 103.4* is amended to read in its entirety as follows:

103.4. Liability. The code official, member of the City of Allegan Construction Board of Appeals or city employee charged with the enforcement of this Code, while acting for the city, in good faith and without malice in the discharge of the duties required by this Code or other pertinent law or ordinance, shall not be rendered liable personally, and is relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Code shall be defended by legal representative of the city until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Code.

- (6) *Section 103.5* is amended to read in its entirety as follows:

103.5. Fees. The city council shall by resolution from time to time, establish a fee schedule for permits under this Code.

- (7) *Section 106.3* is amended to read in its entirety as follows:

106.3. Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed responsible for a municipal civil infraction, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant to this Code. Any action taken by the City of Allegan on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

- (8) *Section 106.4* is amended to read in its entirety as follows:

106.4. Violation penalties. Any violation of this Code shall be punishable as a municipal civil infraction as provided in and subject to the fines and penalties provided under Section 1-14 of the Code of Ordinances of the City of Allegan.

- (9) *Section 111.1* is amended to read in its entirety as follows:

111.1. Construction Board of Appeals. All appeals under this Code shall be brought before the City of Allegan Construction Board of Appeals which board is authorized and has jurisdiction to hear and decide appeals of orders, decisions, or determinations made by the code official relative to the application and interpretation of this Code, using the rules of procedures adopted by the Construction Board of Appeals.

- (10) *Section 111.2* is deleted in its entirety.

- (11) *Section 111.2.1* is deleted in its entirety.

- (12) *Section 111.2.2* is deleted in its entirety.

- (13) *Section 111.2.3* is deleted in its entirety.

- (14) *Section 111.2.4* is deleted in its entirety.

- (15) *Section 111.2.5* is deleted in its entirety.

- (16) *Section 111.3* is deleted in its entirety.
- (17) *Section 111.4* is deleted in its entirety.
- (18) *Section 111.4.1* is deleted in its entirety.
- (19) *Section 111.5* is deleted in its entirety.
- (20) *Section 111.6* is deleted in its entirety.
- (21) *Section 111.6.1* is deleted in its entirety.
- (22) *Section 111.6.2* is deleted in its entirety.
- (23) *Section 111.7* is deleted in its entirety.
- (24) *Section 111.8* is deleted in its entirety.
- (25) *Section 112.4* is amended to read in its entirety as follows:
- 112.4. Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this Code.
- (26) *Section 201.3* is amended to read in its entirety as follows:
- 201.3. Terms defined in other codes.* Where terms are not defined in this Code and are defined in the Michigan Building Code, the Michigan Residential Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Electrical Code, the City of Allegan Fire Code or the City of Allegan Zoning Ordinance, such terms shall have the meanings ascribed to them as stated in those codes or ordinances.
- (27) *Section 302.4* insert "eight (8) inches in height."
- (28) *Section 304.14* insert "May 1 to October 31."
- (29) *Section 602.2* is amended to read in its entirety as follows:
- 602.2. Residential occupancies.* Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature as provided within the Michigan Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.
- (30) *Section 602.3* is amended to read in its entirety as follows:
- 602.3. Heat supply.* Every owner or operator of any building who rents, leases, or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish a heating system to the occupants thereof shall supply heat during the period from October 1 to May 1 to maintain a temperature of not less than 65 degrees F. (18 degrees C.) in all habitable rooms, bathrooms, and toilet rooms.
- Exception:* When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the City of Allegan shall be 6 degrees F.
- (31) *Section 602.4* is amended to read in its entirety as follows:

602.4. *Occupiable work spaces.* Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 to maintain a temperature of not less than 65 degrees F during the period the spaces are occupied.

Exceptions: Processing, storage and operation areas that require cooling or special temperature conditions or areas in which persons are primarily engaged in vigorous physical activities.

- (d) *Copies of code.* A complete copy of the International Property Maintenance Code, 2015 Edition, including Appendix A, is available for public use, inspection and purchase at the offices of the city clerk.

Division 4 – Grass and Noxious Weeds

Sec. 7-51. Definitions

These words and phrases shall have the following meanings when used in this division:

- (a) *Ground-cover vegetation* means any of a variety of low-growing or trailing plants used to cover patches of ground.
- (b) *Issuance of the notice* means posting of a notice on the property or personally serving notice on the responsible party.
- (c) *Noxious weeds* means the following plants only: Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard, and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), giant hogweed (*Heracleum mantegazzianum*), ragweed (*Ambrosia elatior* L.), and poison ivy (*Rhus toxicodendron*), and poison sumac (*Toxicodendron vernix*).
- (d) *Property owner* means a person who holds record title to a parcel of real estate.
- (e) *Responsible party* generally means the property owner, except that:
- (1) A tenant or other person shall be a responsible party (in addition to the property owner) upon expressly assuming responsibility in a written contract with the property owner; and
 - (2) The manager of a business shall be a responsible party (in addition to the property owner) with respect to the property on which the business is situated. For purposes of this section, the term "manager" means the individual that exercises the most control over the day-to-day operations of the business on the property.

Sec. 7-52. Duty to remove noxious weeds and maintain grass.

The responsible party for each private property in the city shall be required to keep the property free from noxious weeds and ensure that grass and other ground-cover vegetation on the property does not grow in excess of eight (8) inches in height. The duties established under this section extend to the portions of the abutting public right-of-way that would become part of the property if the right-of-way were vacated. The responsible party shall have discretion in determining how to landscape and maintain the vegetation in the abutting right-of-way, so long as the landscaping and maintenance complies with all applicable laws, regulations, and ordinances and so long as it does not overhang any sidewalk or other public way in a manner that will interfere or brush against any person using that public way and as long as it does not interfere with the clear vision of vehicle drivers or pedestrians entering and exiting the property.

Sec. 7-53. Enforcement and abatement.

- (a) Any person that violates this division shall be responsible for a municipal civil infraction. Each day that a violation continues shall be deemed to be a separate violation.
- (b) Before commencing enforcement under this division, the enforcement officer shall issue notice to the responsible party charged with the violation, setting forth the violation specifics. The notice shall state the name of the person that the city considers to be the responsible party, and shall specify that failure to remedy the violation may result in the issuance of a municipal civil infraction citation if such remedy is not complete within 48 hours after the issuance of the notice. The notice shall also state that the recipient has the right to appeal the notice to the City Manager.
- (c) If the responsible party fails to abate the blight within the required time frame, the city may take action to abate the violation and may charge the cost of such abatement to the responsible party. The city treasurer shall bill the cost, plus an administration fee of 25 percent, to the responsible party. Such bills shall become due within 30 days of issuance, and it shall be a violation of this division to fail to pay a bill when due. The city may levy a single-lot special assessment in accordance with this Code of Ordinances as a means of recovering the full cost of abatement.
- (d) Abating the nuisance is not in lieu of, or an alternative to, pursuing the civil infraction in district court. Both civil infraction and abatement of the nuisance may be pursued by the city.

Division 4 - Freestanding Outdoor Furnaces

Sec. 7-61. Purpose.

It is the purpose of this division to ban the construction and operation of outdoor furnaces within the limits of the City of Allegan for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants. The types of fuel used and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other products of combustion that can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises. Moreover, the restricted airflow, low operating temperatures, lack of emission controls, and large fuel loads associated with these units frequently result in excessive smoke. Under some conditions smoke can cause both acute and chronic health problems to other residents if they are exposed to the smoke.

Sec. 7-62. Definition.

The term "freestanding outdoor furnace" shall mean any device, appliance, equipment, apparatus, or structure that:

- (a) Is designed, intended and/or used to provide hot water heat and/or hot water to any associated structure.
- (b) Operates by burning wood or any other solid fuel including but not limited to: coal, paper pellets, and agricultural products.
- (c) Is not located within the structure to be heated.

Sec. 7-63. Existing outdoor furnaces.

- (a) Any outdoor furnace existing as of June 25, 2007, which was registered with the city within thirty (30) days of that date may continue in operation except as provided in this section.
- (b) If an existing outdoor furnace is not operated for twelve (12) consecutive months, it may not be used again and must be dismantled or otherwise be removed from the property.
- (c) No new or replacement of existing outdoor furnace shall be installed or put into use.
- (d) This section shall not be deemed as specific authorization for the use of any preexisting

freestanding outdoor furnace designed for structure heat and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private or legal action regarding damage or nuisance caused by the use of a freestanding outdoor furnace designed for structure heat.

Sec. 7-64. Installation and operation prohibited.

- (a) Except as provided in Section 7-63, it shall be unlawful to install, maintain, or operate freestanding outdoor furnaces designed for structure heat and to cause or permit the installation or operation of freestanding outdoor furnaces within the city.
- (b) Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.
- (c) This division shall not be a defense to any civil claims.
- (d) Any person who violates this section shall be responsible for a municipal civil infraction. Further, violations shall be deemed a nuisance per se.

Section 2. Publication and Effective Date. The City Clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect upon publication.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This is a true and complete copy of Ordinance No. ____ adopted at a regular meeting of the Allegan City Council held on _____, 2023.

Teresa Galloway, Mayor

Michaela Kleehammer, Clerk

Introduced: _____, 2023

Adopted: _____, 2023

Published: _____, 2023

Effective: _____, 2023

CITY COUNCIL
CITY OF ALLEGAN
ALLEGAN COUNTY, MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE CHAPTER 7 OF THE CITY OF ALLEGAN,
CODE OF ORDINANCES TO CONSOLIDATE AND PROVIDE UPDATED
REGULATIONS PERTAINING TO BUILDINGS AND PROPERTY
MAINTENANCE**

The City of Allegan ordains:

Section 1. Amendment. Chapter 7 of the City of Allegan, Code of Ordinances is hereby renamed “Buildings and Property Maintenance” and amended to read in its entirety as follows:

**Article I
Construction Code**

Sec. 7-1. Administration and enforcement of Michigan Construction Code.

The city has assumed responsibility for the administration and enforcement of the Michigan Construction Code, including the building, electrical, plumbing and mechanical codes, throughout its corporate limits. The city’s building official is principally charged with the administration and enforcement of the codes. Any fees provided for in the codes shall be as prescribed by resolution of the city council.

**Article II
Rental Registration**

Sec. 7-5. Registration of the operation of rental units, rental dwellings, multiple dwellings and rooming houses.

(a) *Definitions.* These words and phrases shall have the following meanings when used in this article:

- (1) *Building official* shall mean the city’s building official and his or her designees.
- (2) *Dwelling* shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing shall not be regarded as a dwelling.
- (2) *Dwelling unit* shall mean one (1) room or suite of two (2) or more rooms providing complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (3) *Rental unit* shall mean any dwelling or dwelling unit, multiple dwelling or rooming house occupied by a person or persons who is/are not the owner(s) of the property in which the dwelling or dwelling unit is located.

~~(4) *Temporary or transient when referring to a dwelling, rental unit, housing or other living quarters shall mean for a period of occupancy of thirty (30) days or less.*~~

(b) *Registration required.* No person shall operate a rental unit unless he holds a current registration issued by the building official in his name for the specifically named dwelling, multiple dwelling or rooming houses.

(c) *Required inspection.* No rental unit may be registered or re-registered unless it is first inspected by the building official or designee. If the rental unit does not comply with all applicable federal, state,

and local requirements, including the city's blight ordinance and other applicable property maintenance regulations, the building official or designee may refuse to register or re-register the rental unit, or may register or re-register the rental unit subject to certain specified conditions which shall be met in order for the registration or re-registration to remain valid.

- (d) *Registration validity.* Except as set forth in subsections (l), every registration shall be issued for a period of three (3) years unless sooner revoked, and may be renewed for successive periods of three (3) years. Registrations shall be issued for those units and dwellings which conform to all federal, state, and local requirements, including the city's blight ordinance and other applicable property maintenance regulations.
- (e) *Building official.* The building official is hereby authorized, upon application therefore, to issue new operating registrations, and renewals thereof, in the names of applicant owners or operators of rental dwellings, multiple dwellings and rooming houses. No such registrations shall be issued unless such premises for which the registration is sought, is found, after inspection, to meet all requirements of this article and applicable rules and regulations pursuant thereto.
- (f) *Application.* No registration shall be issued or renewed unless the applicant owner or operator has first made application therefore on an application form provided by the building official. The building official shall develop such forms and make them available to the public.
- (g) *Consent to inspections.* No registration shall be issued or renewed unless the applicant owner or operator agrees in his application to such inspections as the building official may require to determine whether the premises is in compliance with the provisions of this article and with applicable rules and regulations pursuant thereto.
- (h) *Registration and inspection fee.* No registration shall be issued or renewed unless the completed application form is accompanied by the payment of a registration and inspection fee as prescribed in the officially adopted resolutions of this city.
- (i) *Required information.* No registration shall be provided or renewed unless the owner annually provides the building official with the current occupant name, indicating dwelling unit address, phone number, as well as the owner's name, address and telephone number. The owner may designate in writing to the building official the name of an agent for the receipt of services of notice that there is a violation of the provisions of this article and for service of process pursuant to this article. Whenever the name, address, or telephone number of the occupant, owner, or his agent changes such information shall be provided to the building official immediately.
- (j) *Renewals.* All applications for a registration renewal must be submitted to the building official, or his designee, thirty (30) days prior to the date on which the registration expires. The city manager may extend the deadline for submission of the registration application.
- (k) *Late filing fee.* For any rental dwelling for which a timely application has not been filed, a late filing fee per unit shall be charged. No registration shall be issued until all filing fees have been paid. Prior to charging a late fee, the last known owner of record shall be notified in writing at his last known address of the need for a registration application, and given forty-eight (48) hours to provide the city with the information necessary for registration.
- (l) *Conducting of inspection.* Following the receipt of an application for registration, or renewal thereof, accompanied by the filing fee, if applicable, the building official or his authorized agent shall make an initial interior and exterior inspection. Upon initial inspection, if the building official finds that the dwelling in question meets all requirements of this article and all other applicable ordinances of the city and there are no outstanding violation notices concerning the dwelling, the building official shall direct that the registration or registration renewal issued for such dwelling be for a period of three (3) years. If the building inspector upon initial inspection finds that the interior

or exterior of the unit in question does not meet all the requirements of this article and all other applicable ordinances of the city, the owner, agent, or landlord, of the rental dwelling shall be notified in writing of the nature of the violations and the date by which the violations must be corrected. Upon finding that each unit and the interior and exterior of the dwelling meets all the requirements of this article and all other applicable ordinances of the city, the building official shall issue a registration for each dwelling.

- (m) *Transfer*. If ownership of the dwelling is transferred during the time that the registration is valid, the registration shall transfer to the new owner upon receipt by the building official of the name, address and telephone number of the new owner. A registration that has been transferred shall expire or be renewed at the same time as if it had not been transferred.
- (n) *Period for registration of rental units*. Rental units required to be registered pursuant to this article shall comply with the following requirements, to the extent applicable:
 - (1) Each newly constructed or newly converted rental unit shall be registered within thirty (30) days after the city issues a certificate of occupancy or an occupancy permit.
 - (2) Each rental unit which is sold, transferred or otherwise conveyed in whole or in part shall be re-registered within thirty (30) days after the date of the deed, land contract or other instrument of conveyance.
 - (3) Each newly converted rental unit which is so converted without the issuance of a certificate of occupancy or an occupancy permit shall be registered within thirty (30) days after the date the rental unit is first occupied for rental purposes.
 - (4) Each rental unit shall be scheduled for inspection and re-registered within thirty (30) days after the expiration of its then current registration.
- (o) *Supplemental inspection*. In addition to the inspection required in subsection (d) above when a rental unit is registered or re-registered, the building official or designee may also inspect a rental unit upon the occurrence of any of the following events:
 - (1) Upon receipt of a complaint from an owner or an occupant of the rental unit that it is in violation of this article;
 - (2) Upon receipt of a complaint from any law enforcement department or other public agency or any other individual having personal knowledge that the rental unit is in violation of this article;
 - (3) Upon the building official or designee's reviewing the exterior of the rental unit and determining that there is probable cause to believe that the rental unit is in violation of this article;
 - (4) Upon receipt of information that the rental unit is not currently registered as required by this article;
 - (5) Upon being directed by resolution of the city council to initiate a city-wide rental unit inspection program; and
 - (6) Upon receipt of a request from an owner of a rental unit for an advisory inspection.
- (p) *Investigation in response to complaint*. Whenever a complaint is filed with the building official alleging that there is a violation of this article or related provisions of this article, the building official or his designee shall investigate the complaint. Such investigation shall include, if necessary, inspection of the interior of the dwelling. Prior to inspection of the interior of a dwelling, the building official shall notify the owner, agent, or landlord, and also the tenant of the time and date of the inspection at least forty-eight (48) hours prior to said inspection. The building official does not need to give prior notice for inspections of the exterior, and the building official shall have

the right to conduct unannounced exterior inspections during daylight hours of any day, except for Saturday and Sunday. All complaints requesting an interior inspection of a rental dwelling must be dated and signed by the owner or occupant specify the nature of the alleged violation and the means by which the complainant acquired direct, first-hand knowledge of the alleged violation.

- (q) *Scheduling of inspection.* Prior to occupancy by tenants, all rental units must have interior and exterior inspections completed by the building official or his authorized agent, and must be issued a registration. Such inspection shall be scheduled within ten (10) working days following notification by the owner to the building official that the building is ready for inspection.
- (r) *Appeals.* An aggrieved property owner, agent, landlord or city resident may appeal any order, requirement, determination or decision of the building official pertaining to the registration of rental dwellings. A fee shall be paid for each appeal to the construction board of appeals.
- (s) *Notices of violation.* Whenever, upon inspection of the registered premises, or of the records required to be kept hereunder, the building official finds that conditions or practices exist which are in violation of the provisions of this article or of any applicable rules and regulations pursuant thereto, he shall serve the owner or operator with notice of the violation in the manner provided by:
 - (1) Mailing the notice to the owner or operator by first class mail; or
 - (2) Personally delivering the notice to the owner or operator.
- (t) *Re-inspections.* At the end of the time he has allowed for correction of any violation cited, the building official or designee shall re-inspect the premises, and if he determines that such conditions have not been corrected, he may issue an order suspending the registration.
- (u) *Orders of suspension; reconsideration.* Any person whose license to operate a rental dwelling, multiple dwelling or rooming house, has been suspended, shall be entitled to a reconsideration of the order or a formal hearing, in the manner provided by this division. If no request for reconsideration or petition for hearing reaches the building official within twenty-one (21) days following the issuance of the order of suspension, the registration shall be revoked, except that prior to revocation any person whose registration has been suspended may request re-inspection upon a showing that the violation or violations cited in the notice have been corrected.
- (v) *Reissuance following successful reinspection.* If, upon re-inspection, the building official finds that the premises in connection with which the notice was issued is now in compliance with this division and with applicable rules and regulations issued pursuant thereto, he shall reinstate the registration. A request for re-inspection shall not extend the suspension period, unless the building official grants the request.
- (w) *Establishing registration and inspection fees.* The city council shall establish by resolution any fee or fees to be charged for the registration and/or inspection of each rental unit. Any such fee may be collected by the building official or designee.
- (x) *Payment of registration fees.* Any registration fee shall be paid by the owner(s) of each rental unit to the city building official. In the event a rental unit has more than one owner, each owner shall be jointly and severally liable for the registration fee. A late payment charge may be established by the city council if the registration fee is not paid within thirty (30) days after its billing date.
- (y) *Payment of inspection fees.* All inspection fees under this article shall be the responsibility of the owner(s) of each rental unit, except as follows:
 - (1) If the inspection is based upon a complaint filed by an owner of the rental unit, and the inspection reveals to the building official that a violation was caused by the occupant(s)/tenants of the rental unit, the occupant/tenant shall be responsible for payment of the inspection fee (if

the building official cannot definitely determine that the violation was caused by the occupant(s) of the rental unit, then the owner(s) shall be liable for the inspection fee);

- (2) If the inspection is based upon a complaint made by the person other than the owner, and the inspection reveals to the building official no violation of this article, the complainant(s) shall be responsible for the payment of the inspection fee; or
- (3) The inspection is part of a city-wide rental unit inspection program initiated by the city council, in which case the city shall be responsible for the inspection fee.

In the event a rental unit has more than one (1) owner and the owners are liable for the inspection fee, or in the event a rental unit has more than one (1) occupant and the occupants are liable for the inspection fee, or in the event more than one (1) complainant files a complaint and the complainants are liable for the inspection fee, each owner or each occupant or each complainant (as the case may be) shall be jointly and severally liable for the inspection fee. A late payment charge may be established by the city council if the inspection fee is not paid within thirty (30) days after the billing date.

- (z) *Lack of valid registration.* No owner shall lease, rent or otherwise allow a rental unit to be occupied unless the rental unit is properly and currently registered as required by this article.
- (aa) *Order to vacate.* No person shall occupy a rental unit if the building official or designee orders that it be vacated due to one (1) or more violations of this article.
- (bb) *Termination of registration.* If the owner(s) of a rental unit fail to comply (or to force the occupant(s) of such rental unit to comply) with a notice received from the building official, or if the owner(s) or occupant(s) (as the case may be) of a rental unit fail to pay within thirty (30) days a billed and outstanding registration fee and/or inspection fee assessed pursuant to this article, the building official may suspend registration for such rental unit. In such event, the building official may post the rental unit and request the city's legal counsel to proceed at law to order the premises in violation to be vacated. Also in the event the building official suspends the registration for a rental unit, the building official shall notify the occupant(s) thereof that the occupant(s) may pay rent into a self-established escrow account until vacating the rental unit or until the registration of the rental unit is either reinstated or renewed. A terminated but not yet expired registration shall be reinstated for a rental unit once the requirements of the building official's notice are met and all outstanding registration fees and inspection fees and late payment charges thereon have been paid in full.
- (cc) *Administrative liability.* No officer, agent, employee, contractor or member of the city council shall be personally liable for any damage that may accrue to any person as a result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this article.
- (dd) *Savings clause.* This article shall not affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause of action acquired or existing, under any portion of the Code of Ordinances superseded by this article; neither shall any just or legal right or remedy be lost, impaired or affected by this article.
- (ee) *Enforcement.* The city council shall designate by resolution the person whose duty it shall be to administer and enforce the provisions of this division within the city.

Article III
Property Maintenance

Division 1 – Blight

Sec. 7-11. Short title.

This division shall be known and may be designated as “The Blight Ordinance of the City of Allegan.”

Sec. 7-12. Definitions.

As used in this division, the following terms are defined below:

- (a) *Blighted structure or building.* Any dwelling, garage, accessory or outbuilding, or any factory, shop, store, office building, warehouse, fence, or any other structure or part of a structure which:
 - (1) Because of fire, wind, other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it was originally intended;
 - (2) Is partially completed and which is not presently being constructed under an existing, valid building permit issued by or under the authority of the city;
 - (3) Is not structurally sound, weather-tight, waterproof or vermin-proof;
 - (4) Is not covered by a water resistant paint or other waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration;
 - (5) Causes or tends to cause devaluation of the subject property or other properties in the area; or
 - (6) Has any of the following conditions:
 - (A) Peeling paint.
 - (B) Sagging and deteriorating roof.
 - (C) Missing and/or damaged siding.
 - (D) Broken or deteriorating windows or doors.
 - (E) Unfinished exterior.
 - (F) Collapsing porch or deck.
 - (G) Cracked and broken foundation/chimney.
 - (H) Graffiti.
 - (7) Has veneer, cornices, belt courses, corbels, trim, wall facings or other similar decorative features not properly anchored or that are anchored with connections not capable of supporting nominal loads and resisting all load effects.
- (b) *Building material.* Any lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, cement, nails, screws, or other materials commonly used in the construction or repair of any buildings or structures.
- (c) *Enforcement officer.* The city manager, city building inspectors, community development coordinator, and any other individual that has been given enforcement duties by the city manager.
- (d) *Graffiti.* Any mark or marks on any surface or structure made without the prior permission of the property owner and made in any manner, including but not limited to, writing, inscribing, drawing, tagging, sketching, spray-painting, painting, etching, scratching, carving, engraving, scraping, or attaching. Chalk marks on sidewalks are not graffiti.
- (e) *Inoperable Vehicle.* Any motor vehicle which is inoperative for any reason such as being in a state of disassembly, disrepair, stripped, dismantled or which cannot be operated under its own

power or cannot function as it was intended and designed to function legally on the roadway, but shall exclude vehicles in process at auto sales and dealership service facilities and auto engine and body repair shops which are to be repaired and made operable within ninety (90) days

- (g) *Issuance of the notice.* Any of the following events:
- (1) Mailing the notice to the responsible party's last known address by first class mail;
 - (2) Personal delivery of the notice to the responsible party;
 - (3) The responsible party's receipt of the notice by email, as indicated in a notification of receipt; or
 - (4) The reading of the notice to the responsible party over the phone.
- (h) *Junk.* Any abandoned, discarded, unusable objects or equipment, any object or equipment unused for its originally intended purpose, including, but not limited to, furniture, furniture intended for indoor use which is placed outdoors, stoves, refrigerators, freezers, cans, barrels, farm implements, parts of motor vehicles, machinery, cloth, rubber, bottles, any metals, boxes, cartons or crates.
- (i) *Responsible party.* A person who violates any of the provisions of this division, whether as owner, occupant, lessee, agent, operator, servant, or employee, except as herein otherwise provided.
- (j) *Trash and rubbish.* Any and all forms of debris not herein otherwise identified, except domestic refuse stored in appropriate containers prior to periodic collection for proper disposal and domestic refuse stored in appropriate containers for composting purposes. The term "trash, rubbish or refuse" shall also include any combustible and noncombustible waste material, including, but not limited to, animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, leaves, brush, tree limbs, wood, lumber, grass or other yard waste.

Sec. 7-13. Blighted structures or buildings prohibited.

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, building, dwelling, garage, outbuilding, factory, shop, store or warehouse in the city.

Sec. 7-14. Blighted exterior and maintenance requirement of property.

It shall be unlawful for any person to fail to improve and maintain all property under the person's control so as to comply with the following minimum requirements:

- (a) All exterior property areas shall be properly maintained in a clean and sanitary condition, free from debris, brush, severed tree limbs, junk, rubbish, physical hazards, rodent harborage and infestation.
- (b) All stored firewood shall be in neat, orderly stacks, unless shielded from the ground level view from all adjoining properties.
- (c) The storage and accumulation of any building material in a visible exterior area shall only be for a period that is reasonably necessary for the future use of such materials, which shall in no event be longer than 90 days. Building materials must be piled off the ground so as not to become a suitable environment for rats, rodents or similar vermin.
- (d) In no case shall usable or unusable machinery, building materials, or other items be stored on a permanent basis in a truck trailer or other type of trailer, with or without its wheels, unless the trailer is enclosed.

- (e) Scaffolding may remain on a building only for a period that is reasonably necessary for the completion of the construction or maintenance activities for which it is erected, which shall in no event be longer than 90 days or the length of the related building permit, whichever is longer.
- (f) Conditions or activities that produce disagreeable or obnoxious odors or stenches or dense smoke, noxious fumes, gas, soot, or cinders in unreasonable qualities are prohibited.
- (g) Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
- (h) Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

Sec. 7-15. Enforcement and penalties.

- (a) Any person that violates this division shall be responsible for a municipal civil infraction. Each day that a violation continues shall be deemed to be a separate violation.
- (b) Before commencing enforcement under this division, the enforcement officer shall issue notice to the responsible party charged with the violation, setting forth the violation specifics. The notice shall state the name of the person that the city considers to be the responsible party, and shall specify that failure to remedy the violation within no fewer than 10 days of the issuance of the notice may result in the issuance of a municipal civil infraction citation. The notice shall also state that the recipient has the right to appeal the notice to the construction board of appeals.
- (c) If the responsible party fails to abate the blight within the required time frame, the city may take action to abate the blight and may charge the cost of such abatement to the responsible party. The city treasurer shall bill the cost, plus an administration fee of 25 percent, to the responsible party. Such bills shall become due within 30 days of issuance, and it shall be a violation of this division to fail to pay a bill when due. The city may levy a single-lot special assessment in accordance with this Code of Ordinances as a means of recovering the full cost of abatement.
- (d) Abating the nuisance is not in lieu of, or an alternative to, pursuing the civil infraction in district court. Both civil infraction and abatement of the nuisance may be pursued by the city.

Sec. 7-16. Appeal of notification of violation.

- (a) A person receiving a notification of violation under section 7-5 of this division may appeal to the City Manager or his/her designee by filing an appeal form with the city clerk no later than ten days after the issuance of the notice. The appeal must be submitted on a standard appeal application form available in on the city's website or in the office of the city clerk. The appeal application must include a thorough description of the reason for appealing and shall be accompanied by any fee that may be required by the city council from time to time.
- (b) The City Manager or his/her designee shall set a reasonable time for hearing of the appeal within 30 days from the date on which the application form is received. The construction board of appeals

shall provide the appellant, by first class mail, one notice of the public hearing date, time, and location.

- (c) The City Manager or his/her designee shall hear and decide appeals, and review on appeal any order, requirement, decision or determination, made by the enforcement officer in applying the requirements of this division. Upon such appeal, the City Manager or his/her designee may reverse or affirm the enforcement officer's determination in whole or in part.

Sec. 7-17. Interpretation.

Nothing in this division shall be interpreted to prohibit conduct or conditions expressly permitted under the city's zoning ordinance.

Division 2 - Dangerous Buildings

Sec. 7-21. Dangerous building and structures ordinance.

This ordinance is specifically authorized by the housing law, 1917 PA 167, as amended, and shall be known and cited as the City of Allegan Dangerous Buildings Ordinance.

Sec. 7-22. Dangerous building unlawful.

It shall be unlawful for any owner, agent, lessee or party in interest to keep or maintain any building or part thereof which is a dangerous building or structure as defined in this ordinance.

Sec. 7-23. Dangerous building defined.

As used in this ordinance, the term "dangerous building" means any building or structure, residential or otherwise, which has any of the following defects or is in any of the following conditions:

- (a) A door, aisle, passageway, stairway, or other means of exit does not conform to the requirements of the city's fire code.
- (b) A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is significantly impaired and the structure does not meet the minimum requirements of the housing law or the Michigan Building Code for a new building or structure, purpose, or location.
- (c) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (d) A portion of the building or structure has settled to an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the housing law or the Michigan Building Code.
- (e) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (f) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (g) The building or structure is damaged by fire, wind, or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (h) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other

reason, is unsanitary or unfit for human habitation, is in a condition likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

- (i) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

Sec. 7-23. Notice of dangerous building.

- (a) The city's building official may issue a notice pursuant to this section upon finding that a building or structure is a dangerous building. The notice shall be served on the owner, agent, or lessee registered with the city. If an owner, agent, or lessee is not registered with the city, the notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.
- (b) The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- (c) The hearing officer shall be appointed by the mayor to serve at his or her pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the city shall not be appointed as hearing officer. The city shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.
- (d) The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

Sec. 7-24. Hearings and other proceedings.

- (a) At the hearing, the hearing officer shall take testimony of the city, the owner of the property, and any interested party. Not more than 5 days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- (b) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner, agent, or lessee shall take and sets a date by which the owner, agent, or lessee shall comply with the order. If the building is a dangerous building under the provisions of this ordinance, the order may require the owner or agent, to bring and maintain the exterior of the building and adjoining grounds into compliance including, but not limited to, the maintenance of lawns, trees, and shrubs.
- (c) If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (b), the hearing officer shall file a report of the findings and a copy of the order with the city's construction board of appeals not more than 5 days after the date for compliance set in the order and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent, or lessee in the manner prescribed in Section 7-23.
- (d) The construction board of appeals shall set a date not less than 30 days after the hearing prescribed in subsection (a) for an appellate hearing on the findings and order of the hearing officer. The

construction board of appeals shall give notice to the owner, agent, or lessee in the manner prescribed in Section 7- 23 of the time and place of the hearing. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The construction board of appeals shall either approve, disapprove, or modify the order. If the construction board of appeals approves or modifies the order, the city shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this subsection. For an order of demolition, if the construction board of appeals of the city determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires expedited demolition exists.

- (e) The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this ordinance. The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure incurred by the city to bring the property into conformance with this ordinance shall be reimbursed to the city by the owner or party in interest in whose name the property appears.
- (f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, the city shall have a lien for the cost incurred by the city to bring the property into conformance with this ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, 1893 PA 206, as amended.
- (g) In addition to the other remedies provided under this ordinance, the city may bring an action against the owner of a dangerous building or structure for the full cost of demolition, of making the building safe, or of maintaining the exterior or grounds adjoining a dangerous building or structure. The city shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

Sec. 7-25. Enforcement of judgment against other assets.

- (a) A judgment in an action brought pursuant to subsection 7-24(g) may be enforced against assets of the owner other than the building or structure.
- (b) The city shall have a lien for the amount of a judgment obtained pursuant to subsection 7-24(g) against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided

for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens or encumbrances.

Sec. 7-26. Penalties.

- (a) A person who violates any provision of this dangerous building ordinance shall be responsible for a municipal civil infraction.
- (b) A person who fails or refuses to comply with an order approved or modified by the construction board of appeals is guilty of misdemeanor punishable by imprisonment for not more than 120 days or a fine of not more than \$1,000 or both.

Sec. 7-27. Appeal of circuit court.

An owner or party in interest aggrieved by any final decision of the construction board of appeals may appeal the decision or order to the Allegan County Circuit Court by filing an appeal within 20 days from the date of such decision.

Division 3 – International Property Maintenance Code

Sec. 7-31. Enforcement of the International Property Maintenance Code, 2015 Edition.

- (a) *Adoption of code.* The International Property Maintenance Code, 2015 Edition, including Appendix A, as promulgated and published by the International Code Council, Inc., is adopted by reference as the Property Maintenance Code of the City of Allegan, and made a part of this chapter as if fully set forth in this article, subject to the modifications provided in this article and subject to such further modifications as the city shall adopt from time to time.
- (b) *Definitions.* Whenever the words "*city*," "*jurisdiction*" or "*governmental unit*" are used in the International Property Maintenance Code, 2015 Edition, they shall mean the City of Allegan. Whenever the word "*state*" is used in the International Property Maintenance Code, 2015 Edition, it shall mean the State of Michigan.
- (c) *Amendments to the Property Maintenance Code.* The International Property Maintenance Code, 2015 Edition, including Appendix A, is amended as follows:
 - (1) *Section 101.1* is amended to read in its entirety as follows:

101.1. Title. These regulations shall be known and may be cited as the "Property Maintenance Code of the City of Allegan," and will be referred to in this article as this "Code."
 - (2) *Section 102.3* is amended to read in its entirety as follows:

102.3. Application of other codes. Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Michigan Building Code, the Michigan Residential Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Electrical Code and the City of Allegan Fire Code. Nothing in this Code shall be construed to cancel, modify or set aside any provision of the City of Allegan Zoning Ordinance.
 - (3) *Section 102.3.1* is added to read in its entirety:

102.3.1. Reference to other codes. Whenever the "International Building Code" or "building code" is referenced in this Code it shall mean the Michigan Building Code. Whenever the "International Mechanical Code" is referenced in this Code it shall mean the Michigan Mechanical Code. Whenever the "International Plumbing Code" is referenced in this Code it shall mean the Michigan Plumbing Code. Whenever the "International Electrical Code" or "NFPA 70" is referenced in this Code it shall mean the Michigan Electrical Code. Whenever the "International Fire Code", "fire code" or "NFPA 25" is referenced in this Code it shall

mean the City of Allegan Fire Code. Whenever the "International Zoning Code" is referenced in this Code it shall mean the City of Allegan Zoning Ordinance.

- (4) *Section 103.1* is amended to read in its entirety as follows:

103.1. General. Whenever the terms "code official" or "building official" are used in this Code it shall mean the designated building inspector of the city.

- (5) *Section 103.4* is amended to read in its entirety as follows:

103.4. Liability. The code official, member of the City of Allegan Construction Board of Appeals or city employee charged with the enforcement of this Code, while acting for the city, in good faith and without malice in the discharge of the duties required by this Code or other pertinent law or ordinance, shall not be rendered liable personally, and is relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Code shall be defended by legal representative of the city until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Code.

- (6) *Section 103.5* is amended to read in its entirety as follows:

103.5. Fees. The city council shall by resolution from time to time, establish a fee schedule for permits under this Code.

- (7) *Section 106.3* is amended to read in its entirety as follows:

106.3. Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed responsible for a municipal civil infraction, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant to this Code. Any action taken by the City of Allegan on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

- (8) *Section 106.4* is amended to read in its entirety as follows:

106.4. Violation penalties. Any violation of this Code shall be punishable as a municipal civil infraction as provided in and subject to the fines and penalties provided under Section 1-14 of the Code of Ordinances of the City of Allegan.

- (9) *Section 111.1* is amended to read in its entirety as follows:

111.1. Construction Board of Appeals. All appeals under this Code shall be brought before the City of Allegan Construction Board of Appeals which board is authorized and has jurisdiction to hear and decide appeals of orders, decisions, or determinations made by the code official relative to the application and interpretation of this Code, using the rules of procedures adopted by the Construction Board of Appeals.

- (10) *Section 111.2* is deleted in its entirety.

- (11) *Section 111.2.1* is deleted in its entirety.

- (12) *Section 111.2.2* is deleted in its entirety.

- (13) *Section 111.2.3* is deleted in its entirety.
- (14) *Section 111.2.4* is deleted in its entirety.
- (15) *Section 111.2.5* is deleted in its entirety.
- (16) *Section 111.3* is deleted in its entirety.
- (17) *Section 111.4* is deleted in its entirety.
- (18) *Section 111.4.1* is deleted in its entirety.
- (19) *Section 111.5* is deleted in its entirety.
- (20) *Section 111.6* is deleted in its entirety.
- (21) *Section 111.6.1* is deleted in its entirety.
- (22) *Section 111.6.2* is deleted in its entirety.
- (23) *Section 111.7* is deleted in its entirety.
- (24) *Section 111.8* is deleted in its entirety.
- (25) *Section 112.4* is amended to read in its entirety as follows:
- 112.4. Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this Code.
- (26) *Section 201.3* is amended to read in its entirety as follows:
- 201.3. Terms defined in other codes.* Where terms are not defined in this Code and are defined in the Michigan Building Code, the Michigan Residential Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Electrical Code, the City of Allegan Fire Code or the City of Allegan Zoning Ordinance, such terms shall have the meanings ascribed to them as stated in those codes or ordinances.
- (27) *Section 302.4* insert "eight (8) inches in height."
- (28) *Section 304.14* insert "May 1 to October 31."
- (29) *Section 602.2* is amended to read in its entirety as follows:
- 602.2. Residential occupancies.* Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature as provided within the Michigan Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.
- (30) *Section 602.3* is amended to read in its entirety as follows:
- 602.3. Heat supply.* Every owner or operator of any building who rents, leases, or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish a heating system to the occupants thereof shall supply heat during the period from October 1 to May 1 to maintain a temperature of not less than 65 degrees F. (18 degrees C.) in all habitable rooms, bathrooms, and toilet rooms.
- Exception:* When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the City of Allegan shall be 6 degrees F.

(31) *Section 602.4* is amended to read in its entirety as follows:

602.4. Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 to maintain a temperature of not less than 65 degrees F during the period the spaces are occupied.

Exceptions: Processing, storage and operation areas that require cooling or special temperature conditions or areas in which persons are primarily engaged in vigorous physical activities.

(d) *Copies of code.* A complete copy of the International Property Maintenance Code, 2015 Edition, including Appendix A, is available for public use, inspection and purchase at the offices of the city clerk.

Division 4 – Grass and Noxious Weeds

Sec. 7-51. Definitions

These words and phrases shall have the following meanings when used in this division:

- (a) *Ground-cover vegetation* means any of a variety of low-growing or trailing plants used to cover patches of ground.
- (b) *Issuance of the notice* means posting of a notice on the property or personally serving notice on the responsible party.
- (c) *Noxious weeds* means the following plants only: Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard, and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), giant hogweed (*Heracleum mantegazzianum*), ragweed (*Ambrosia elatior* I.), and poison ivy (*Rhus toxicodendron*), and poison sumac (*Toxicodendron vernix*).
- (d) *Property owner* means a person who holds record title to a parcel of real estate.
- (e) *Responsible party* generally means the property owner, except that:
 - (1) A tenant or other person shall be a responsible party (in addition to the property owner) upon expressly assuming responsibility in a written contract with the property owner; and
 - (2) The manager of a business shall be a responsible party (in addition to the property owner) with respect to the property on which the business is situated. For purposes of this section, the term "manager" means the individual that exercises the most control over the day-to-day operations of the business on the property.

Sec. 7-52. Duty to remove noxious weeds and maintain grass.

The responsible party for each private property in the city shall be required to keep the property free from noxious weeds and ensure that grass and other ground-cover vegetation on the property does not grow in excess of eight (8) inches in height. The duties established under this section extend to the portions of the abutting public right-of-way that would become part of the property if the right-of-way were vacated. The responsible party shall have discretion in determining how to landscape and maintain the vegetation in the abutting right-of-way, so long as the landscaping and maintenance complies with all applicable laws, regulations, and ordinances and so long as it does not overhang any sidewalk or other public way in a manner that will interfere or brush against any person using that public way and as long as it does not interfere with the clear vision of vehicle drivers or pedestrians entering and exiting the property.

Sec. 7-53. Enforcement and abatement.

- (a) Any person that violates this division shall be responsible for a municipal civil infraction. Each day that a violation continues shall be deemed to be a separate violation.
- (b) Before commencing enforcement under this division, the enforcement officer shall issue notice to the responsible party charged with the violation, setting forth the violation specifics. The notice shall state the name of the person that the city considers to be the responsible party, and shall specify that failure to remedy the violation may result in the issuance of a municipal civil infraction citation if such remedy is not complete within 48 hours after the issuance of the notice. The notice shall also state that the recipient has the right to appeal the notice to the City Manager.
- (c) If the responsible party fails to abate the blight within the required time frame, the city may take action to abate the violation and may charge the cost of such abatement to the responsible party. The city treasurer shall bill the cost, plus an administration fee of 25 percent, to the responsible party. Such bills shall become due within 30 days of issuance, and it shall be a violation of this division to fail to pay a bill when due. The city may levy a single-lot special assessment in accordance with this Code of Ordinances as a means of recovering the full cost of abatement.
- (d) Abating the nuisance is not in lieu of, or an alternative to, pursuing the civil infraction in district court. Both civil infraction and abatement of the nuisance may be pursued by the city.

Division 4 - Freestanding Outdoor Furnaces

Sec. 7-61. Purpose.

It is the purpose of this division to ban the construction and operation of outdoor furnaces within the limits of the City of Allegan for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants. The types of fuel used and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other products of combustion that can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises. Moreover, the restricted airflow, low operating temperatures, lack of emission controls, and large fuel loads associated with these units frequently result in excessive smoke. Under some conditions smoke can cause both acute and chronic health problems to other residents if they are exposed to the smoke.

Sec. 7-62. Definition.

The term "freestanding outdoor furnace" shall mean any device, appliance, equipment, apparatus, or structure that:

- (a) Is designed, intended and/or used to provide hot water heat and/or hot water to any associated structure.
- (b) Operates by burning wood or any other solid fuel including but not limited to: coal, paper pellets, and agricultural products.
- (c) Is not located within the structure to be heated.

Sec. 7-63. Existing outdoor furnaces.

- (a) Any outdoor furnace existing as of June 25, 2007, which was registered with the city within thirty (30) days of that date may continue in operation except as provided in this section.
- (b) If an existing outdoor furnace is not operated for twelve (12) consecutive months, it may not be used again and must be dismantled or otherwise be removed from the property.
- (c) No new or replacement of existing outdoor furnace shall be installed or put into use.

(d) This section shall not be deemed as specific authorization for the use of any preexisting freestanding outdoor furnace designed for structure heat and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private or legal action regarding damage or nuisance caused by the use of a freestanding outdoor furnace designed for structure heat.

Sec. 7-64. Installation and operation prohibited.

(a) Except as provided in Section 7-63, it shall be unlawful to install, maintain, or operate freestanding outdoor furnaces designed for structure heat and to cause or permit the installation or operation of freestanding outdoor furnaces within the city.

(b) Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.

(c) This division shall not be a defense to any civil claims.

(d) Any person who violates this section shall be responsible for a municipal civil infraction. Further, violations shall be deemed a nuisance per se.

Section 2. Publication and Effective Date. The City Clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect upon publication.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This is a true and complete copy of Ordinance No. ____ adopted at a regular meeting of the Allegan City Council held on _____, 2023.

Teresa Galloway, Mayor

Michaela Kleehammer, Clerk

Introduced: _____, 2023

Adopted: _____, 2023

Published: _____, 2023

Effective: _____, 2023