

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE IV, “BUILDING REGULATIONS” OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, BY ADDING CHAPTER 15, “MINIMUM MAINTENANCE STANDARDS”, SO AS TO ADOPT PROPERTY MAINTENANCE STANDARDS THAT SHALL APPLY TO ALL BUILDINGS AND PREMISES IN THE CITY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM FINE OR PENALTY OF FIVE HUNDRED DOLLARS (\$500.00); ESTABLISHING AN EFFECTIVE DATE THAT SHALL BE 30 DAYS AFTER THE DATE OF ADOPTION OF THIS ORDINANCE; AND ORDERING PUBLICATION

WHEREAS, the City Council finds it to be in the public interest to amend Title IV, “Building Regulations” of the City Code of the City of Midland, Texas, by adding Chapter 15, “Minimum Maintenance Standards”, so as to adopt property maintenance standards that shall apply to all buildings and premises in the City; and

WHEREAS, the Council finds that all legal requirements and conditions precedent to the adoption of this ordinance have been satisfied;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:

SECTION ONE. That Title IV, “Building Regulations” of the City Code of the City of Midland, Texas, is hereby amended to add Chapter 15, “Minimum Maintenance Standards”, which shall read in its entirety as follows:

4-15-1. Purpose; application; administration.

- (A) *Purpose.* The purpose of this Chapter is to establish minimum requirements to provide a reasonable level of health, safety, property protection and general welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises.
- (B) *Application.* The provisions of this Chapter shall apply to all existing structures and all existing premises and constitute minimum requirements and standards for such premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance, the responsibility of owners, an owner’s authorized agent, operators and occupants, and the occupancy of existing structures and premises.
- (C) *Administration.* The City Manager is authorized to administer and enforce this Chapter.

4-15-2. Definitions.

As used in this Chapter:

- (A) *Anchored* means secured in a manner that provides positive connection.
- (B) *Basement* means that portion of a building that is partly or completely below grade.
- (C) *Bathroom* means a room containing plumbing fixtures including a bathtub or shower.
- (D) *Bedroom* means any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.
- (E) *City Manager* means the City Manager of the City of Midland or the City Manager's designee.
- (F) *Deterioration* means weakening, disintegration, corrosion, rust or decay, or loss of effectiveness.
- (G) *Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (H) *Easement* means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.
- (I) *Emergency escape and rescue opening* means an operable exterior window, door or other similar device that provides for a means of escape and access for rescue in the event of an emergency.
- (J) *Essential utility* means a utility that is essential for public health and safety and includes water, sewer, electricity, and natural gas.
- (K) *Exterior property* means the open space on the premises and on adjoining property under the control of owners or operators of such premises.
- (L) *Garbage* means the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (M) *Guard* means a building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.
- (N) *Habitable space* means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.
- (O) *Housekeeping unit* means a room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and

eating that does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

- (P) *Infestation* means the presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.
- (Q) *Let for occupancy* or *Let* means to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.
- (R) *Occupancy* means the purpose for which a building or portion thereof is utilized or occupied.
- (S) *Occupant* means any individual living or sleeping in a building, or having possession of a space within a building.
- (T) *Operator* means any person who has charge, care or control of a structure or premises that is let or offered for occupancy.
- (U) *Owner* means any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- (V) *Person* means an individual, corporation, partnership or any other group acting as a unit.
- (W) *Premises* means a lot, plot or parcel of land, easement or public way, including any structures thereon.
- (X) *Public way* means any street, alley or other parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated or otherwise permanently appropriated to the public for public use; and has a clear width and height of not less than 10 feet (3048 mm).
- (Y) *Rooming unit* means any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.
- (Z) *Rubbish* means combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.
- (AA) *Sleeping unit* means a room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
- (BB) *Structure* means that which is built or constructed.

- (CC) *Toilet room* means a room containing a water closet or urinal but not a bathtub or shower.
- (DD) *Ventilation* means the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.
- (EE) *Yard* means an open space on the same lot with a structure.

4-15-3. Compliance with Chapter required.

Each owner, operator, and occupant of each structure and premises within the City shall comply with the applicable provisions of this Chapter. The standards established in this Chapter shall be the minimum standards for the continued use and occupancy of all structures and premises regardless of the date of construction.

4-15-4. Owner’s and operator’s general responsibilities.

Each owner and operator of the premises shall maintain the structures and premises in compliance with these minimum standards. A person shall not occupy or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Chapter. The standards of this Chapter are intended to complement the requirements of any other applicable ordinance or provision of the City Code and shall not be deemed to lessen any more restrictive standard required by the applicable ordinances and City Code provisions that existed at time of original construction or subsequent remodeling. The duty of an owner and operator to maintain structures and premises in compliance with this Chapter is not affected by any duty this Chapter creates upon the occupants thereof, even if the owner or operator has, by agreement, imposed upon the occupants the duty of maintaining the structures and premises and complying with this Chapter.

4-15-5. Occupant’s general responsibilities.

The occupant of a building, dwelling unit, rooming unit, hotel room, or housekeeping unit shall keep in a clean, sanitary, and safe condition that part of the building, dwelling unit, rooming unit, hotel room, housekeeping unit, or exterior premises which the occupant possesses or occupies.

4-15-6. All structures and premises.

- (A) *Exterior grounds and premises.* The owner and operator shall maintain all exterior grounds and premises in a clean, safe, and sanitary condition, which shall include, but not be limited to, the following duties:
 - (1) Maintain parking lots, fire lanes, driveways, sidewalks, porches, patios, and other paved areas free from deterioration, holes, excavations, sharp protrusions, or any other object or condition which may cause injury to a person.
 - (2) Provide and maintain legible parking and fire lane markings.
 - (3) Maintain vehicular and pedestrian control devices in good condition.
 - (4) Cover and maintain all exposed ground with pavement, stone screenings, other solid or semi-pervious material, or vegetative growth that is capable of eliminating soil erosion and dust, and that is free of holes and depressions that may injure a person or property.

- (5) Maintain wells, cesspools, cisterns, and storm shelters securely covered or closed.
 - (6) Remove trees and tree limbs that are reasonably capable of damaging a structure, or that are reasonably capable of causing injury to a person, and maintain vertical clearance such that no tree limb or branch is:
 - (a) within fourteen (14) feet above the driving surface of a fire lane, street, or alley, measured vertically from the surface of the pavement to the lowest point of the tree limb or branch; or
 - (b) within eight (8) feet above a sidewalk, measured vertically from the surface of the sidewalk to the lowest point of the tree limb or branch.
 - (7) Do not allow or cause any wall, fence, other structure, sign, vegetation, or other object on the premises to obstruct the line of sight of a driver or pedestrian who is using or approaching a street, sidewalk, alley, driveway, or intersection such that the driver's or pedestrian's ability to see approaching vehicles, pedestrians, or traffic control devices is limited or eliminated.
 - (8) Maintain fences, gates, and screening walls in structurally sound condition and in good repair, free from broken, loose, rotted, insect-damaged, or missing components, and make repairs to fences, gates, and screening walls using materials of comparable composition, size, and quality to the original fence or wall; provided, however, that materials not intended for fencing, gates, or screening walls, including, but not limited to, pallets, plywood, or similar materials, shall not be used as permanent repair materials.
 - (9) Do not allow or cause any portion of a wall, fence, or other structure, including guy wires, braces, or other structural elements, to be constructed upon or to encroach upon property owned by the City or any right-of-way maintained by the City unless such wall, fence, or other structure is owned by the City or the construction or encroachment has been expressly permitted by the City in writing.
 - (10) Maintain all exterior property and premises free from rubbish or garbage except as contained in covered, leakproof containers; provide containers of adequate size and number, which shall be serviced with adequate regularity to prevent an overflow; and remove excess rubbish and garbage or items too large for the provided containers.
 - (11) To the extent that any route, parking area, or other exterior feature is required by law, ordinance, rule, or regulation to be accessible to persons with disabilities, maintain such route, parking area, or exterior feature in compliance with applicable accessibility requirements, including the Texas Accessibility Standards, and ensure that such route, parking area, or exterior feature is kept free from obstructions, deterioration, or other conditions that would impair accessibility.
- (B) *Exterior of structures.*
- (1) The owner and operator shall maintain the exterior of all structures and equipment thereon in good condition, in a structurally sound condition, and in a sanitary condition, so as not to pose a threat to the public health, safety, or welfare, which shall include, but not be limited to, the following duties:

- (a) Maintain all exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences 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. All 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 watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. It is an affirmative defense to prosecution of a violation of the oxidation removal requirement that the surface is designed for stabilization by oxidation or that the structure is a manufactured home or recreational vehicle that will not be in place longer than ninety (90) days.
- (b) Maintain all structural members free from deterioration, and capable of safely supporting the imposed dead and live loads.
- (c) Maintain all foundation walls plumb and free from open cracks and breaks in such condition so as to prevent the entry of rodents and other pests.
- (d) Provide mechanical ventilation or screened cross-ventilation openings of not less than one and one-half (1½) square feet for each twenty-five (25) linear feet of wall in each basement, cellar, and crawl space.
- (e) Maintain all exterior walls free from holes, breaks, and loose or rotting materials.
- (f) Maintain all exterior walls and exposed surfaces of metal or wood to protect them from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
- (g) Maintain the roof covering and flashing sound, tight and without defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good condition and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- (h) Maintain all cornices, belt courses, corbels, trim, wall facings, and similar decorative features in good condition with proper anchorage and in a safe condition.
- (i) Maintain all overhang extensions, including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts in good condition and properly anchored. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (j) Maintain every exterior stairway, ramp, deck, porch, and balcony, and all appurtenances attached thereto, structurally sound, in good

condition, with proper anchorage and capable of supporting the imposed loads.

- (k) Maintain all chimneys, cooling towers, smokestacks, and similar appurtenances structurally safe and sound, and in good condition.
- (l) Maintain every window, skylight, door, and frame in sound condition, good condition, and weather tight, including:
 - (i) that all glazing materials shall be maintained free from cracks and holes;
 - (ii) that every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware; and
 - (iii) that every window which opens directly to or from an outdoor space shall be equipped with a tightly fitting insect-proof screen of not less than sixteen (16) meshes per square inch.
- (m) Maintain all exterior doors, door assemblies, hardware, and seals in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door.
- (n) Maintain all signage, including wall, monument, and pole signs, in good and safe condition.
- (o) Ensure that any sign or sign cabinet that does not display a current, legible message identifying an active business, tenant, product, or service on the premises, including, but not limited to, a sign with missing or damaged panels, partially removed faces, or exposed internal components, is provided with a blank face or removed entirely, and ensure that electrical service to any such sign is disconnected or removed.
- (2) Security devices. The owner and operator of all residential rental property shall comply with the Subchapter D, Chapter 92, Property Code.
- (3) Storm drainage. The owner and operator shall provide and maintain drainage of roofs and paved areas, yards and courts, and other open areas on the premises in a way so as not to be discharged in a manner that creates a public nuisance.
- (C) *Interior of structures.*
 - (1) The owner and operator shall maintain the interior of a structure and equipment therein in good condition, in a structurally sound condition, and in a sanitary condition, and the occupant shall maintain that part of the structure which the occupant occupies in a clean and sanitary condition, which shall include, but not be limited to, the following duties and requirements:
 - (a) Maintain all structural members structurally sound, and capable of supporting the imposed loads.
 - (b) Maintain all interior surfaces, including windows and doors, in good, clean, and sanitary condition. Peeling, chipping, flaking, or abraded

paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

- (c) Maintain every stair, ramp, landing, or other walking surface in sound condition and good condition.
 - (d) Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers, or tracks as intended by the manufacturer of the attachment hardware.
 - (e) Every dwelling unit shall contain a kitchen that meets, and every hotel room that contains a kitchen or kitchenette shall meet, the following requirements:
 - (i) food-contact surfaces shall be smooth and easily cleanable, impermeable to liquid, unpainted, not resurfaced, free from areas which are inaccessible to cleaning and inspection, free from breaks, seams, cracks, chips, pits, or similar imperfection, and free from difficult-to-clean internal corners or crevices;
 - (ii) surfaces for equipment not intended for contact with food but which are exposed to splash or food debris or which otherwise require frequent cleaning shall be smooth, washable, free of unnecessary ledges, projections or crevices, readily accessible for cleaning, and constructed of such material in such repair as to be easily maintained in a clean and sanitary condition;
 - (iii) gaskets and seals used for temperature control on doors into refrigeration systems shall be maintained clean, firm-fitting, and intact; and
 - (iv) grease extracting ventilation hoods shall be provided which are readily removable and listed by a recognized testing laboratory.
 - (f) No window, door, or other opening serving a habitable space that provides natural light, ventilation, or emergency egress shall be removed, enclosed, or reduced in size so as to:
 - (i) eliminate the only window serving a habitable space; or
 - (ii) create a bedroom or habitable space that lacks at least one window opening directly to the outdoors or a compliant means of emergency egress where required.
 - (g) To the extent that any feature within the structure, including a route, entrance, or other element, is required by law, ordinance, rule, or regulation to be accessible to persons with disabilities, maintain such feature in compliance with applicable accessibility requirements, including the Texas Accessibility Standards, and ensure that such feature is kept free from obstruction, deterioration, or other conditions that impair accessibility.
- (2) Fuel burning equipment. The owner and operator shall:

- (a) ensure that fuel burning heating and cooking devices are properly vented to the outside;
 - (b) ensure that all fuel supply lines and fuel containers are securely installed to avoid accidental displacement;
 - (c) maintain all required clearances to combustible materials;
 - (d) maintain all safety controls for fuel-burning equipment in effective operating condition; and
 - (e) provide and maintain supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment.
- (3) Mechanical. The owner and operator shall provide and maintain heating and cooling facilities in all dwellings as follows:
- (a) Heating facilities shall be capable of maintaining a room temperature of 68 degrees Fahrenheit in all habitable rooms, bathrooms, and toilet rooms at any point measured a distance of not more than three feet above floor level, and not more than two feet from an exterior wall.
 - (b) Cooking appliances and portable space heaters shall not be used to provide space heating to meet the requirements of this Paragraph (3).
 - (c) Cooling facilities shall be capable of maintaining a room temperature of at least 15 degrees cooler than the outside temperature, but in no event higher than 85 degrees, in all habitable rooms, bathrooms, and toilet rooms at any point measured a distance of not less than five feet above floor level, and not more than three feet from an exterior wall.
 - (d) All rooms, and all other enclosed spaces, shall be ventilated in a manner sufficient to keep them free of excessive heat, steam, condensation, vapors, offensive odors, smoke, and fumes.
 - (e) Intake and exhaust air ducts shall be maintained in such a manner as to prevent the entrance of dust, dirt, and any other contaminating material.
- (4) Electrical. The owner and operator shall properly install and maintain all electrical equipment, wiring, and appliances in a safe manner, which shall include, but not be limited to, the following requirements and standards:
- (a) The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with Chapter 2 of this Title.
 - (b) Artificial light fixtures with protective shields capable of preventing broken glass from falling shall be used in areas where food may be exposed and in areas where equipment or utensils may be stored.
 - (c) Ground-fault circuit-interrupter protected receptacles shall be provided for the following locations:
 - (i) bathrooms;
 - (ii) kitchens where the receptacles are installed to serve the countertop surfaces; and

- (iii) laundry, utility, and wet bar sinks where the receptacles are installed within six feet of the outside edge of the sink.
- (d) A portable generator or combination of portable generators shall not be used as a primary source of electrical power for a structure.
- (5) Elevators, escalators, and dumbwaiters. The owner and operator shall maintain all elevators, escalators, and dumbwaiters in a safe and operable condition, which shall include, but not be limited to, the following requirements and standards:
 - (a) Maintain each elevator, escalator, and dumbwaiter to safely sustain imposed loads, operate properly, and be free from physical and fire hazards.
 - (b) Comply with all state laws, rules, and regulations applicable to each elevator, escalator, and dumbwaiter.
 - (c) Maintain at least one operating passenger elevator in an occupied building that is equipped with one or more passenger elevators; provided, however, that a building with only one passenger elevator may have the elevator temporarily out of service for a reasonable period of time for testing, inspection, or servicing.
- (6) Egress required. The owner and operator shall ensure that every bedroom has at least one window or opening facing directly to the outdoors, which is capable of being opened far enough to permit egress by any adult.
 - (a) It is an affirmative defense to prosecution of a violation under this Paragraph (6) that the windows conform to all applicable laws and ordinances that were in effect at the time of their construction and have been adequately maintained and upgraded to current requirements of applicable laws and ordinances in response to any alteration, fire damage, repair, or addition.
 - (b) When an unsafe condition exists through lack of, or improper location of exits, the building official or fire chief may require the owner and operator to install additional exits.
- (D) *Essential utilities.*
 - (1) Multiple-family dwelling communities. If the owner or operator is responsible for the provision of an essential utility for a dwelling unit in a multiple-family dwelling community, such owner or operator shall ensure that these utilities are provided at all times. If an essential utility is interrupted due to an accident, natural event, or equipment malfunction, the owner and operator shall cause repairs to begin as soon as practical and shall have service reinstated within 24 hours, except as otherwise provided for sewer systems in this Chapter. Except in cases beyond the reasonable control of the owner or operator, if repairs are not completed and service reinstated within 24 hours, the owner or operator shall relocate affected residents to temporary housing.
 - (2) Hotel. The owner and operator are responsible for the provision and payment for essential utilities and shall ensure that essential utilities are provided to each hotel room at all times. If an essential utility is interrupted

due to an accident, natural event, or equipment malfunction, the owner and operator shall cause repairs to begin as soon as practical and shall have service reinstated within 24 hours, except as otherwise provided for sewer systems in this Chapter. Except in cases beyond the reasonable control of the owner or operator, if repairs are not completed and service reinstated within 24 hours, the owner or operator shall relocate affected residents to temporary housing.

- (3) If the owner or operator is responsible for payment for an essential utility for a dwelling unit, such owner or operator shall ensure that the essential utility is not discontinued due to payment delinquency. Termination of an essential utility due to non-payment shall be grounds for the revocation of the certificate of occupancy.
- (E) *Handrails.* The owner and operator shall provide and maintain every exterior and interior flight of stairs having more than four risers with a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface which is more than 30 inches above the floor or grade below with guards. Handrails shall not be less than 30 inches high or more than 42 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 42 inches high above the floor of the landing, balcony, porch, deck, ramp, or other walking surface. Intermediate rails shall be spaced to prohibit the passage of: a four-inch sphere for rails installed after August 30, 1991; a six-inch sphere for rails installed prior to August 30, 1991; or a nine-inch sphere for rails installed prior to February 1, 1979. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (F) *Extermination.* The owner and operator shall maintain all structures free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, the owner and operator shall take proper precautions to prevent reinfestation. The owner, operator, and occupant shall maintain those portions of the interior of a structure under his or her control free from rubbish, garbage, and other substances that may encourage infestation by insects, rodents, or vermin, and from all unsanitary conditions and shall cause the structure to be exterminated of insects, rodents, and other pests by an exterminator licensed by the state within 10 days after receiving written notice from the City that extermination is necessary.
- (G) *Plumbing in all structures and premises.*
 - (1) The owner or operator shall provide and maintain the following plumbing facilities in compliance with the applicable provisions of this Title and in a manner that does not pose a health or sanitation hazard:
 - (a) kitchen sink, lavatory basin, and either a bathtub or shower, all of which are provided with both hot and cold water;
 - (b) flush toilet; and
 - (c) water heating equipment adequate to supply hot water to every kitchen sink, lavatory basin, and bathtub or shower at a temperature of not less than 110 degrees Fahrenheit.

- (2) The owner or operator shall connect the plumbing facilities described in Paragraph (1) to:
 - (a) either (i) a public water system or (ii) an approved private water system; provided, however, that any such connection shall be made in compliance with all applicable laws, ordinances, rules, and regulations and in a manner that does not pose a health or sanitation hazard; and
 - (b) either (i) a public sanitary sewer system or (ii) an approved on-site wastewater system; provided, however, that any such connection shall be made in compliance with all applicable laws, ordinances, rules, and regulations and in a manner that does not pose a health or sanitation hazard.
- (3) The owner, operator, and occupant shall:
 - (a) maintain all occupied areas and all plumbing equipment and facilities in a clean, sanitary condition at all times; and
 - (b) connect plumbing fixtures and heating equipment that the occupant supplies in compliance with applicable laws and ordinances.
- (4) The owner and operator shall take immediate action to clear stoppages and partial blockages of all sanitary sewer systems. The owner and operator shall within 24 hours after written notice of a malfunctioning sewer system:
 - (a) reinstate properly functioning sewer service; and
 - (b) complete removal of all residue, and complete treatment of all affected areas with a suitable disinfectant, including, but not limited to, inside structures, underneath structures, and all premises under the control of the owner and operator. It is unlawful for the owner, operator, or any person under his control to permit washing or power-washing sewage and debris. It is an affirmative defense to prosecution of a violation of the washing prohibition that the debris and wash water are contained, collected, and properly disposed of.
- (5) Notwithstanding Paragraph (4), if repairs are necessary that involve excavating to replace or rearrange sanitary sewer piping, the City Manager may grant additional time for the owner or operator to complete the repair and restore properly functioning sewer service. Said additional time shall not exceed 48 hours for a total of 72 hours after written notice.
- (6) If repairs involving excavation are necessary, the owner and operator shall establish an electronic record of the internal problems using a sewer line video inspection system or by taking photographs or video of the repairs once the line is excavated. The owner and operator shall maintain said record to confirm to the City that the repairs were completed.
- (7) Written notice of a malfunctioning sewer system shall be effective upon the earliest of any of the following:
 - (a) upon personal service;
 - (b) upon delivery to the person's office during normal business hours;

- (c) upon posting such notice on the door of the person's residence or office; or
 - (d) 72 hours after depositing the notice, enclosed in a postpaid, properly addressed envelope, in a post office or official depository under the care and custody of the United States Postal Service.
- (8) The owner and operator shall notify the City Manager of sewer overflows immediately, but in no case later than twenty-four (24) hours, after the overflow.
 - (9) The owner and operator shall maintain access points (i.e., cleanouts and manholes) to sanitary sewer piping closed and tightly capped at all times. It is an affirmative defense to prosecution of a violation of this Paragraph that there is construction, cleaning, inspection, or repair actively occurring.
 - (10) If a notice is provided under this Subsection in excess of two times within a twelve-month period, the owner and operator shall have the sanitary sewer piping cleaned and the internal piping condition assessed by a video inspection system. The cleaning and video assessment shall, at a minimum, include the piping from the point of blockage downstream to the City sewer system. The owner and operator shall retain an electronic record of said condition assessment and provide it as requested by the City.
 - (11) If a notice is provided under this Subsection in excess of four times within a twelve-month period, the owner and operator shall maintain a written agreement to have the sanitary sewer piping, including, but not limited to, sewer mains and lateral lines, cleaned at least once every two months. The owner and operator shall retain a copy of said written agreement and provide it as requested by the City. If the structure and premises improve to such a condition that notice is not required for 12 consecutive months, the owner and operator may reduce the cleaning frequency to once annually.
 - (12) If a notice is provided under this Subsection in excess of six times within a twelve-month period, it is deemed that all or part of the sanitary sewer piping under the control of the owner and operator is in total structural failure. When all or part of the sanitary sewer piping is deemed to be in total structural failure, the owner and operator shall conduct a complete assessment of the sewer piping and replace the failed area. The owner and operator shall retain an electronic record of said condition assessment and provide it as requested by the City.
 - (13) The costs, charges, and expenses incurred by the City in responding to, cleaning up, applying appropriate disinfectant to raw sewage and residue that entered the public right-of-way from the structure and premises, or causing such work to be done, shall be a charge to and a personal liability of the owner and operator.
- (H) *Fire safety.* The owner and operator shall provide and maintain a safe, continuous, and unobstructed path of travel from any point in a structure to the public way. Means of egress shall be in compliance with Title VII, Chapter 1 of the City Code, which shall include, but not be limited to, the following requirements:
- (1) At least one emergency escape window or door shall be provided for each nonsprinklered bedroom below the fourth story.

- (2) Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet. It is an affirmative defense to prosecution of a violation of this Paragraph that the minimum net clear opening for the emergency escape and rescue grade-floor opening is five square feet or greater for a building built prior to February 1, 1979.
- (3) The minimum net clear opening height dimension shall be 24 inches. The minimum net clear opening width dimension shall be 20 inches. The net clear opening dimensions shall be the result of normal operation of the opening. It is an affirmative defense to prosecution of a violation of this Paragraph that the minimum net clear opening height or width is 22 inches or greater for a window legally installed prior to February 1, 1979.
- (4) Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44 inches measured from the floor. It is an affirmative defense to prosecution of a violation of this Paragraph that the bottom of the clear opening is 48 inches or less for windows legally installed prior to February 1, 1979.
- (5) Emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates, or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with this Subsection and such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening.
- (6) When an unsafe condition exists due to the provision of an insufficient means of egress system or emergency escape opening, the City may require the owner or operator to comply with this Subsection.
- (7) Provide and maintain illumination for all interior and exterior means of egress, including corridors, stairways, and landings, at all times the building is occupied, sufficient to permit safe egress.
- (I) Fire protection systems. The owner and operator shall provide and maintain all systems, devices, and equipment to detect a fire, smoke, or carbon monoxide, actuate an alarm, or suppress or control a fire or any combination thereof in operable condition at all times in accordance with Title VII, Chapter 1 of the City Code, including, but not limited to, the following requirements:
 - (1) Smoke alarms shall be installed and maintained on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms and in each room used for sleeping purposes. It is an affirmative defense to prosecution of a violation of this Paragraph that the bedroom or sleeping room was constructed prior to August 29, 1991.
 - (2) Smoke alarms shall receive their primary power from the building wiring and shall be equipped with a battery backup. It is an affirmative defense to prosecution of a violation of this Paragraph that battery backup is not required for smoke alarms legally installed prior to August 29, 1991. It is an affirmative defense to prosecution of a violation of this Paragraph that smoke alarms are permitted to be solely battery operated if the alarm was legally installed prior to February 1, 1979.

- (J) *Alterations.* Each owner, operator, and occupant of a building shall not alter the building or its facilities so as to create any noncompliance with any applicable law or ordinance.
- (K) *Vacant units, structures, and land.*
- (1) In addition to the other requirements of this Section, the owner and operator shall maintain:
- (a) all vacant units, structures, and premises thereof or vacant land in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety; and
 - (b) all vacant or unoccupied structures or parts of structures completely secure from unauthorized entry in accordance with the following minimum standards for securing a structure:
 - (i) All openings in a structure, including all floor levels, shall be secured to prevent entry by unauthorized persons. One building entrance may be secured with a door of either solid core wood or steel construction, having no window in the door, and the door shall be securely locked to allow access only to authorized persons. Said door shall be secured with a through-bolted hasp and padlock if the door swings in.
 - (ii) If plywood materials are used to secure buildings, such materials shall be no less than one-half inch thick exterior grade. Particle board, wafer board, masonite, or other similar materials shall not be used for purposes of boarding-up a building.
 - (iii) Mechanical fasteners used for wood board-up materials shall be round-headed, non-slotted carriage bolts no less than three-eighths inch in diameter with washers and nuts on the interior face.
 - (iv) The primary method of securing plywood boards shall be by the use of through-bolt compression fastening, using plywood on the exterior face and wood bracing constructed of minimum two-inch by four-inch (nominal) lumber installed on the interior side of the opening to be secured, perpendicular to the long dimension of the opening. Such bracing shall extend at least six inches beyond the edge of the opening on each side in order to be securely braced against the building structure.
 - (v) Wood construction used to secure a structure opening shall contain at least one bolt in each corner and additional bolts no more than four feet on center continuously along the perimeter. Each bolt shall fully penetrate the wood bracing on the interior side of the opening.
 - (vi) The surfaces of such securing materials exposed to the weather shall be protected with the application of exterior grade paint, or a similar weather resistant finish, which blends with the background color of the building.
- (2) It is an affirmative defense to prosecution of a violation of the requirement of through-bolt compression fastening that such fastening is impossible due to the construction or condition of the opening. In such event, the

opening shall be covered with plywood secured with minimum three-inch-long wood screws fastened on four-inch centers around the circumference of the opening.

- (3) Nothing in the minimum standards of this Subsection shall preclude an owner or operator from utilizing superior materials, such as metal, masonry, or concrete, or proprietary systems such as vacant property securing systems, which exceed the durability and reliability of the foregoing standards, to secure a vacant structure or portion of a structure.
- (4) In the event that a structure becomes unsecure after compliance with the standards in this Subsection, the owner and operator shall resecure the structure immediately and maintain said structure in a secure manner.

4-15-7. Offense.

- (A) A person who violates a provision of this Chapter shall be guilty of a misdemeanor and fined in a sum not to exceed \$500.00. A person commits a separate and distinct offense for each separate violation of a provision of this Chapter. A person commits a separate and distinct offense for each day during which a violation of this Chapter is committed, permitted, or continued. Evidence of a culpable mental state is not required to prove a criminal offense under this Chapter. It is hereby declared that, for all offenses prosecuted under this Chapter, the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.
- (B) In addition to criminal enforcement of this Chapter, the City may pursue any available civil remedies and penalties.

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. That the penalty for a violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding five hundred dollars (\$500.00)

pursuant to State law. The definitions of all offenses under this ordinance do not require a culpable mental state. The definitions of all offenses under this ordinance plainly dispense with any mental element as authorized by Section 6.02 of the Texas Penal Code. It is hereby declared that for all offenses under this ordinance, the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

SECTION FIVE. This ordinance shall become effective on the 30th day after its final approval and adoption.

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2026; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

Lori Merritt Blong, Mayor

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Jose Ortiz, Deputy City Manager

Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

Nicholas Toulet, City Attorney