



City of Morgantown, KY

## Adoption of the International Property Maintenance Code 2012 Edition

**Whereas**, the City of Morgantown desires to create a safe and visually pleasing community,

**Whereas**, the City of Morgantown seeks to create and enforce Code Enforcement legislation,

**Whereas**, the City of Morgantown desires to adopt an Ordinance of the International Property Maintenance Code: 2012 Edition, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Morgantown; providing for the issuance of permits and collections of fees therefor; repealing **Ordinance 2014-14** of the City of Morgantown and all other ordinances or parts of laws in conflict therewith.

### BE IT ORDAINED BY THE CITY OF MORGANTOWN:

#### Section 1

That the International Property Maintenance Code, 2012 edition, three (3) copies of which are on file in the office of the City Clerk of the City of Morgantown, as published by the International Code Council and as updated by the International Code Council from time to time, as amended herein, be and is hereby adopted as the Property Maintenance Code of the City of Morgantown, in Butler County, Commonwealth of Kentucky for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of Morgantown are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this Ordinance.

#### Section 2. Amendments

Section 101.1 Insert: **City of Morgantown** for “Name of Jurisdiction”

Section 102.3 Replace: This section shall be replaced as follows:

**“Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with procedures and provisions of the 2013 Kentucky Building Code, Third Edition, dated June 22, 2016, 2013 Kentucky**

**Residential Code, Third Edition, dated June 22, 2016, 2013 Kentucky Plumbing Code, 2015 Kentucky Heating, Ventilation and Air Conditioning Laws, Kentucky Mechanical Code, Kentucky Standards of Safety, National Fire Code, and the National Electric Code, all of the foregoing as they exist as of adoption of this Ordinance or as they may be amended, supplemented or changed by the Commonwealth of Kentucky or National Association related to the particular code. This Ordinance shall be construed to be supplemental and complimentary to the provisions of the Zoning Code for the City of Morgantown, Kentucky. If there is a direct conflict between this Ordinance and Zoning Code for the City of Morgantown, this Ordinance shall control.**

Section 102.7 Amend: In addition to the codes listed in Chapter 8, the codes listed herein shall also be included.

Section 103.5 Repeal: The section labeled "Fees" is not adopted.

Section 106.2 Replace: This Section shall be replaced as follows:

**Violations of the Property Maintenance Code; notice of violation, citations, appeals, and liens.**

**(1) When a code official, based upon personal observation or investigation, has reasonable cause to believe that a violation of the Property Maintenance Code has occurred, the official is authorized to issue a citation to the owner of the property. Each citation shall have, at minimum, a seven (7) day grace period in which the owner may remedy the violation without further penalty. If the owner fails or refuses to remedy the violation within the time specified, the citation shall proceed as provided for herein.**

**(2) Any citation issued by the code official for a violation or violations of the Property Maintenance Code shall be in a form prescribed by the City and shall contain, in addition to any other information required by ordinance or rule of the board, the following information:**

- (a) The date and time of issuance;**
- (b) The name and address of the person to whom the citation is issued;**
- (c) The date and time the offense or violation was committed;**
- (d) The facts constituting the offense or violation;**
- (e) The section of the code or number of the ordinance violated;**

**(f) The name of the code official;**

**(g) The civil fine that will be imposed for the violation if the person does not contest the citation.**

**(h) The maximum civil fine that may be imposed if the person elects to contest the citation.**

**(i) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and**

**(j) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the Code Enforcement Board to contest the citation and that the determination that a violation was committed shall be final.**

**(3) Any citation that is issued for the violation or violations of the Property Maintenance Code must be served upon the owner of the property or any individual with a legal interest in the property by:**

**(a) Certified mail, return receipt requested; or**

**(b) Personal delivery; or**

**(c) By leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice.**

**(4) After issuing a citation to an alleged violator of the Property Maintenance Code, the code official shall notify the Code Enforcement Board by delivering the citation to the administrative official designated by ordinance or by the Code Enforcement Board.**

**(5) When a citation for a violation or violations of the Property Maintenance Code is issued, the person to whom the citation is issued shall, at minimum, have a seven (7) day grace period in which to remedy the violation. If the grace period has expired without the violation being remedied, the person shall, within fourteen (14) days of the date the citation is issued either pay the civil fine set forth in the citation or request, in writing, a hearing before the Code Enforcement Board to contest the citation. If the person fails to respond to the citation within fourteen (14) days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the**

**Code Enforcement Board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.**

**(6) When a hearing before the Code Enforcement Board has been requested, the Code Enforcement Board shall schedule a hearing. Not less than seven (7) days before the date set for the hearing, the Code Enforcement Board shall notify the person who requested the hearing of the date, time and place of the hearing. The notice of hearing shall be given in the same manner as set forth in subsection (3) above.**

**(7) Each case before the Code Enforcement Board may be presented by either an attorney selected by the City of Morgantown or by a member of the administrative staff of the City of Morgantown. An attorney may either be counsel to the Code Enforcement Board or may represent the City of Morgantown by presenting cases before the Code Enforcement Board, but in no case shall an attorney serve in both capacities.**

**(8) All testimony at the Code Enforcement Board hearings shall be under oath and shall be recorded. The Code Enforcement Board shall take testimony from the code official(s), the alleged offender and any witnesses to the alleged violation offered by the code officials(s) or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.**

**(9) At the hearing, the Code Enforcement Board shall determine, based on the evidence presented, whether a violation was committed. When the Code Enforcement Board determines that no violation was committed, an order dismissing the citation shall be entered. When the Code Enforcement Board determines that a violation has been committed, it shall issue an order upholding the citation and may order the offender to pay a civil fine, or may order the offender to remedy a continuing violation within a specified period of time to avoid the imposition of the fine, or both. The Code Enforcement Board shall order the offender upon a finding of a violation to pay, in addition to any fine, the costs of the hearing, including attorney fees, witness fees and administrative costs.**

**(11) Every final order of the Code Enforcement Board shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order is issued, the order shall be delivered to that person by certified mail, return receipt requested; or by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is**

eighteen (18) years of age or older and who is informed of the contents of the order.

**(12) An appeal from any final order issued by the Code Enforcement Board may be made to the Butler County District Court within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the Code Enforcement Board's order in the same manner as any civil action under the Rules of Civil Procedure. The appeal shall be limited to a review of the record created before the Code Enforcement Board.**

**(13) If no appeal from a final order of the Code Enforcement Board is filed within the time period set forth in this section, the Code Enforcement Board's order shall be deemed final for all purposes.**

**(14) The City of Morgantown shall possess a lien on real property owned by the person found by a final, non-appealable order of the Code Enforcement Board, or by final judgment of the court, to have committed a violation of the Property Maintenance Code for all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Code. The lien shall be notice to all persons from the time of its recording and shall bear interest at the rate of 12% per annum until paid. The lien shall take precedence over all other subsequent liens, except state, county, school board and city taxes, and may be enforced by judicial proceedings.**

**(15) In addition to the remedy prescribed in subsection (14) above, the person found to have committed the violation shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of the ordinance. The City may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.**

Section 106.3 Replace: This Section and Section Heading are replaced as follows:

#### **Section 106.3 Penalties for Violation of Property Maintenance Code**

- 1. Any person, firm, corporation, or titled owner who violates an provision of this code shall be subject to a civil fine of not less than \$100.00 per day per violation but not more than \$500.00 per day per violation, or the cost to the City of Morgantown to abate the violation, or both. Each date that a violation of this ordinance continues after due notice has been served in accordance with the terms of this code shall be deemed a separate offense to a maximum of \$10,000 per citation.**

2. **As an additional alternative remedy to the above penalty, any violator who violates any provision of the city Property Maintenance Code and/or Nuisance Code and has been previously issued two or more citations of violations of the City of Morgantown Code of Ordinances related to the same property within a 12-month period may be assessed additional civil penalties of \$500 per day per violation to a maximum of \$20,000 per citation.**
3. **The City of Morgantown shall possess a lien on property for all fines, penalties, charges, attorney's fees and other reasonable costs associated with enforcing this code and the placing of a lien on the parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other subsequently filed liens, except state, county, school board, and city taxes.**

Section 106.4 Repeal: This Section is labeled "Violation Penalties" is not adopted.

Section 107 Repeal: Sections 107.1, 107.2, 107.3, and 107.5 are not adopted.

Section 108.3 Replace: This Section is replaced as follows:

**Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 106 and served on the owner or responsible person in accordance with Section 106. However, if the whereabouts of a person is unknown and it cannot be ascertained by a code official in the exercise of reasonable diligence, or if the whereabouts of the owner is known and he or she refuses to accept personal service or the certified letter mailed to him or her, then the code official shall make an affidavit to that effect, and thereafter, further notice may be served on such persons by sending a copy of same by regular U.S. mail to the person's last known mailing address, as recorded in the office of the PVA, or by newspaper publication, pursuant to KRS Chapter 424."**

Section 108.4 Replace: This section is replaced as follows:

**With respect to structures that violate this subsection, upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises a placard bearing the following language: This building is unfit for human habitation, occupancy, or use; the use or occupation of this building for human habitation, occupancy, or use is prohibited and unlawful. With respect to defective equipment, upon**

**failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the equipment a placard that the equipment is defective and should not be used and/or may have the equipment rendered inoperable until such time as it complies with this Code.**

Section 108.4.1 Replace: This section is replaced as follows:

**The code official shall remove the above-referenced placard whenever the defect or defects upon which the placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be in violation of the Kentucky Penal Code and subject to immediate arrest and applicable penalties.**

Section 108.5 Replace: This section is replaced as follows:

**Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be in violation of the Kentucky Penal Code and subject to immediate arrest and applicable penalties.**

Section 109.5 Replace: This Section is replaced as follows:

**Cost incurred in the performance of emergency work shall be paid by the City. The City may recover these costs by filing a lien on the property on which the emergency work was performed and it may recover these costs by foreclosing on this lien or by taking other appropriate legal action.**

Section 110.2 Replace: This Section replaced as follows:

**All notices and orders shall be issued and served in the same manner as is set forth in Section 108.**

Section 110.4 Replace: This section is replaced as follows:

**When any structure has been ordered demolished and removed, the City Council or other designated officer under said contract or arrangement shall have the right -- but is not required -- to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal and after the payment of any liens, fines, or taxes owed on the property, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto,**

**subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.**

Section 111 Repeal: This section and all following subsections or subchapters shall not be adopted.

Section 112.4 Insert: **\$500.00** entered in the first [AMOUNT] field  
**\$1,000.00** entered in the second [AMOUNT] field

Section 302.4 Insert: **10 inches** entered in the [HEIGHT IN INCHES] field

Section 303 Repeal: This Section and following subsections shall not be adopted.

Section 304.14 Repeal: This Section is not adopted.

Section 308.4 Insert: This section and its heading shall be added as follows:

**No owner of any dwelling shall allow the placing of any furniture not originally sold new for outdoor use on the exterior of a dwelling.**

Section 404.4.1 Replace: The words "**50 square feet (4.6m<sup>2</sup>)**" shall be replaced with "**30 square feet (2.79 m<sup>2</sup>)**"

Section 602.1 Replace: This Section is replaced as follows:

**Heating facilities shall be provided in structures as required by this section. Every residential and commercial occupancy shall have a permanent heat source. A permanent heat source is one in which the power source is either hard wired or piped into the appropriate utility.**

Section 602.3 Insert: **September 30th** entered in the first [DATE] field  
**May 31st** entered in the second [DATE] field

Section 602.4 Insert: **September 30th** entered in the first [DATE] field  
**May 31st** entered in the second [DATE] field

### **Section 3. Effective Date**

**This ordinance shall become effective after its passage and publication as required by law on the date of December 1, 2017.**

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Published: \_\_\_\_\_

City Administrator: \_\_\_\_\_

Mayor: \_\_\_\_\_