

Draft Ordinance
for First Reading – City of Buchanan, 06/13/2022

ARTICLE IV. - HOUSING PROPERTY MAINTENANCE CODE

Sec. 14-86. - Adopted.

The International Property Maintenance Code, 2021 Edition (hereinafter "IPMC"), is hereby adopted by reference as the Property Maintenance Code of the City of Buchanan, subject to the amendments contained in this Article IV.

(Comp. Ords. Rev. 2022, § _____)

Sec. 14-87. - References in code.

References in the IPMC adopted under this Article IV to:

- (1) "board of appeals" or "board" shall mean the City's Zoning Board of Appeals;
- (2) "city" shall mean the City of Buchanan (hereinafter the "City");
- (3) "code official" shall mean the City Building Inspector and/or Code Enforcement Officer;
- (4) "compliance agency" referred to in Section 103.1 shall mean the City's Building Department.
- (5) "local laws" shall mean the Ordinances of the City;
- (6) "governing body," "governing authority," "applicable governing authority," and/or "chief appointing authority" shall mean the City Commission;
- (7) "the jurisdiction" and/or "authority having jurisdiction" shall mean the City;
- (8) "name of jurisdiction" shall meant the City of Buchanan;

(Comp. Ords. Rev. 2021, § _____)

Sec.	14-88.	-	Amendments.
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The IPMC adopted under this Article is amended as follows:

105.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* shall first attempt to obtain prior permission to enter from the owner or owner's authorized agent. If permission to enter is not granted, the code official shall obtain a warrant for inspection of the premises and/or structure from a court of competent jurisdiction before entering the premises or structure. ~~is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.~~

109.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 111.4 shall be deemed guilty of a ~~misdemeanor or civil infraction as determined by the local municipality,~~ 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 thereto. Any action taken by the City authority having jurisdiction ~~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.

110.4 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 subject to fines established by the City, ~~which may be set via Resolution of the City Commission.~~ ~~authority having jurisdiction.~~

111.4 Notice. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given , including any order to demolish, in the manner prescribed in Sections 111.4.1 and 111.4.2 to the owner or the owner's authorized agent and any lienholders of record, for the violation as specified in this code. Notices for condemnation procedures shall comply with this section.

111.6 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order, [condemnation notice](#), or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

113.1 General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year [after the date of the compliance order, condemnation notice or other notice of violation](#), unless approved by the building official.

APPENDIX B, IPMC:

B101.7.1 Decision Resolution. The decision by the board shall be by [written report stating the board's factual findings, decision, and reasons for decision on the appeal resolution](#). Every decision shall be promptly filed in writing in the office of the code official within [three \(3\)](#) days and shall be open to the public for inspection. A certified copy shall be furnished to the appellant's representative and code official.

B101.7.1A Board Decision. Within [five \(5\)](#) days of the date of board of appeals decision, it shall file its decision with the City Commission and request that the City Commission review and concur with its decision.

B101.7.1B Hearing on Repair or Demolition Order. If repair or demolition is ordered, or if the owner, owner's agent or an interested party fails to comply with the requirements of an opportunity to repair, the City shall issue a notice giving the date and time the matter is to be heard by the City Commission and serve the notice, in the manner provided in Section 111.4, on the owner, owner's agent or interested party at least ten days prior to the hearing.

B101.7.1C City Commission Hearing. At the City Commission hearing, the owner, owner’s agent, or other interested parties shall be given the opportunity to show cause why any ordered repairs should not be made or the structure should not be demolished but repaired, and the City Commission shall either approve, disapprove or modify the order of the board of appeals. In addition:

(1) After the hearing, the decision of the City Commission shall be served on the owner, owner’s agent and all interested parties in the manner provided in section 111.4

(2) The City Commission may require a deposit of funds adequate for demolition if it allows an owner, owner’s agent or interested party to repair as structure or premises, and it may determine and attach any conditions to any permit to repair.

(3) Any decision to allow repair issued by the City Commission in a dangerous structure or premises case shall limit the time for completion during a period reasonably determined by the City Commission, taking into account the condition of the premises or structure, but not to exceed **ninety (90) days** from the date of issuance of the Commission decision.

(4) If the owner, owner’s agent or other interested parties fail to comply with the decision of the City Commission within the time limited or as conditioned, the City may cause the building or structure to be demolished or repaired, first utilizing any funds deposited. The cost, in excess of any deposit, of the demolition or repair shall be collected by the City in the manner following: An owner, owner’s agent, or interested party shall be notified of the amount of such costs by first class mail; if it fails to pay within 30 days after the mailing of the notice, the City may recover the costs from the owner, owner’s agent or interested party as a personal obligation by filing an action for recovery in any court of competent jurisdiction. The City may further, or alternatively, add the premises to the next tax roll of the City and collect the costs in the same manner in all respects as provided by law for the collection of taxes. Defendants in the personal action, if any, shall receive credit for all amounts collected through the tax collection procedure, but shall be liable for any uncollected amounts. If the City collects through the personal action any amount of the costs incurred, the tax lien shall be thus reduced.

B101.7.1D Appeal to Circuit Court. Any owner, owner’s agent, or interested party aggrieved by any final decision of the City Commission may appeal the decision in the time and manner provided under State statutes and applicable Court Rules.

(Comp. Ords. Rev. 2021, § _____)

Section _____. Repeal and Replacement. This Article IV., Property Maintenance Code, repeals and replaces the former Article IV, Housing Code, Sections 14-86 through 14-110 of 1991 of the Buchanan Code of Ordinances.

(Comp. Ords. Rev. 2021, § _____)