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Sec. 8-2. Property maintenance standards.

- (a) *Minimum livability code adopted.* The City adopts the Maryland Minimum Livability Code, COMAR 05.02.03, et seq., as now or hereafter amended, as its standards for the maintenance of all residential, commercial, and institutional properties within the City, subject to the deletions, insertions and additions set forth hereinafter. The Maryland Minimum Livability Code incorporates the 2012 edition of the International Property Maintenance Code (IPMC), subject to the modifications set forth therein. The deletions, insertions and additions set forth hereinafter pertain specifically to the 2012 edition of the IPMC. In the event subsequent editions of the IPMC are adopted as the Maryland Minimum Livability Code, those deletions, insertions and additions shall continue to apply.
- (b) *Deletions from IPMC.* The following sections of the IPMC are deleted:
 - (1) Section 111 (Means of Appeal); and
 - (2) Section 302 (Exterior Property Areas) with the exception of Section 302.4 (Weeds), 302.5 (Rodent harborage), 302.6 (Exhaust vents), 302.7 (Accessory structures), 302.8 (Motor vehicles) and 302.9 (Defacement of property)
- (c) *Revisions to IPMC.* The following sections of the IPMC are revised by inserting the language set forth below at the insertion points set forth in the applicable sections:
 - (1) Section 101.1. Insert: City.
 - (2) Section 103.5. Insert: Refer to the fee schedule established by the City.
 - (3) Section 112.4. Insert: \$250.00 at the first insertion point and \$500.00 at the second insertion point.
 - (4) Section 302.4. Insert: "12 inches" at the insertion point.
 - (5) Section 304.14. Insert: May 15 to September 15.
 - (6) Section 602.3. Insert: October 1 to May 1.
 - (7) Section 602.4. Insert: October 1 to May 1.

- (d) *Definitions.* For the purposes of this section 8-2, the following definitions shall apply:

Car cover means a cover that is specifically manufactured and commercially retailed for the purpose of covering a vehicle. This cover can be a cover designed for the specific vehicle or type of vehicle, or may be designed for a generic vehicle. The cover must be completely opaque, conceal the vehicle entirely, and be securely fastened at all times. Generic tarps are not a permitted car cover.

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Disabled vehicle means a motor vehicle that is incapable of moving under its own power.

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Junk motor vehicle means a motor vehicle that does not have lawfully affixed thereto both an unexpired registration plate or plates and a current motor vehicle safety inspection certificate and the condition of which is wrecked, disabled, dismantled, partially dismantled, inoperative, abandoned, or discarded.

Motor vehicle or vehicle shall have the same meaning as that set forth in section 11-135 of the Transportation Article of the Maryland Annotated Code, as amended from time to time, which currently defines *motor vehicle* as follows:

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- (a) (1) Motor vehicle means, except as provided in subsection (b) of this section, a vehicle that:

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untended shrub, vine, or plant growing on, around, or nearby any hydrant, standpipe, sprinkler system connection, or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto.

- (2) *Used appliances.* No operative or inoperative appliances or appliance parts shall be left on open or unscreened porches, landings or in yard areas.
- (3) *Open Storage of materials and furnishings.*
 - (a) *Furniture.* Only furniture specifically designed and manufactured for outdoor use may be situated and maintained upon open or unscreened porches, landings and yards. No upholstered furniture, designed and manufactured for indoor use, including mattresses, shall be placed, situated or allowed to remain upon open or unscreened porches, landings or in the surrounding yards.
 - (b) *Other materials and furnishings.* No person shall openly store or keep any equipment, materials, or furnishings; or any item that creates an unsightly condition or one that promotes urban blight or public nuisance. This may include, but is not limited to: auto parts, tires, shopping carts, or building and construction materials. Exception: Building materials neatly stacked and stored for no less than sixty (60) days for a construction project permitted within the City. The material must be weather protected, shall not be placed within property setbacks, or placed in such a manner that would create a danger to property, health, and/or safety.
 - (c) *Outdoor wood storage.* Outdoor wood and firewood shall be neatly stacked not to exceed six (6) feet in height, shall be adequately supported so as not to pose a hazard to person or property, and shall not be placed in any setback or other restricted area on the property in which it is being stored.
- (4) *Motor Vehicles.* ~~Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept, or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped for dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. Notwithstanding the foregoing, a vehicle may undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.~~vehicles.

~~(5) Storage.~~

- ~~(a) _____ (1) It shall be unlawful to park, store, or leave or permit the parking or storing of any motor vehicle of any kind, for more than thirty (30) days, upon any private property within the City which is in a rusted, wrecked, junked, discarded, disabled, dismantled, partially dismantled, inoperative, or abandoned condition or is otherwise a junk motor vehicle as defined in this section of the city code unless the it is completely enclosed within a building or structure, or unless it is Unlicensed motor vehicles. Except as provided for in or authorized by other regulations, no disabled vehicle or unlicensed vehicle may be parked, kept, or stored on any premises~~
- ~~(b) Repair/disassembly of motor vehicles. Motor vehicles in a major state of disassembly, disrepair, or which are being stripped, dismantled, repaired or overhauled, including body work, may not be parked, kept, or stored at any premises unless they are parked, kept or stored inside a structure or similarly enclosed area designed and approved for such purposes or unless it is stored outside of a building or structure if such storage is permitted by applicable law and the owner has procured any required licenses, permits or other authorizations.~~

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(c) ~~It shall be the duty of the code official to enforce the provisions of this section on disabled, junk & wrecked vehicles. Except as provided for in or authorized by other regulations, disabled vehicles, junk vehicles, and wrecked vehicles may not be parked, kept, or stored at any premises unless they are parked, kept or stored inside a structure or similarly enclosed area designed and approved for such purposes.~~

(d) ~~Painting of the motor vehicles is prohibited unless conducted inside an approved spray booth.~~

(e) ~~Car cover requirement. Except as provided for in or authorized by other regulations, motor vehicles kept, stored or parked outside may be covered by a car cover. Any other covers are prohibited.~~

(f) ~~Responsibility for compliance. The registered owner or, actual owner, or lessee of any such vehicle in violation of the provisions of this section, or a motor vehicle, the owner of the private property where the motor vehicle is stored, or the lessee or other persons person in possession of any private property upon which any such motor vehicle is located, to remove shall be responsible for complying with the same from said property, or to have the it completely enclosed within a building or structure, terms of this subsection (4).~~

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Commented [JR1]: Would we be able to cite both the owner and the occupant, if the abandoned vehicle is located at a rental property?

(c) Notice of Violation

(1) ~~It shall be the duty of the Community Development Director or the Director's designee(s) to give written notice of a code violation to the registered owner, if known or reasonably ascertainable, of any motor vehicle found to be in violation of the provisions of this section or, alternatively, to give such notice to the owner or lessee of the private property where the motor vehicle is situated. Said notice shall demand that the violation be rectified within twenty one (21) days of the date of the notice.~~

(2) ~~Notice Requirements. Notice may be given by first class U.S. mail, postage prepaid, overnight mail or hand delivery. The notices required herein shall be deemed to have been given as of the date of mailing or hand delivery.~~

(3) ~~In addition, the Community Development Director and/or its designees, after having delivered notice as hereinabove required, and after having waited for 72 hours, may cause the vehicle to be removed and stored by a commercial towing service provider to a storage area. The City may thereafter file suit against the party upon whom the notice was provided in order to recover the cost of removing and storing said vehicle or vehicles, the city's reasonable attorneys' fees, litigation expenses and court costs.~~

(4) ~~After the vehicle has been towed, a certified letter shall be sent to the last registered owners' address describing the motor vehicle by make, model, color, and the location at which the motor vehicle is stored. If the certified mail is returned to the code official, the code official shall have the returned notice posted in the Circuit Court for Allegany County for a period of not less than twenty five (25) days. If the owner does not claim the vehicle within the twenty five (25) day period, the code official shall notify the Frostburg City Police Department, and a certificate of disposal shall be issued to the towing company storing the vehicle.~~

(5) ~~If the motor vehicle is not reclaimed within the twenty five (25) days, it shall be conclusively presumed to be abandoned by its registered owner and that the failure of the registered owner or lien holders to exercise their right to reclaim the motor vehicle within the time provided shall be deemed a waiver by the registered owner and all lien holders of all right, title, and interest in the motor vehicle and consent to the city the power and authority to dispose of the motor vehicle to a junk yard or disposing of same by any other reasonable means which the city may elect.~~

Commented [M2]: This is redundant

Commented [JR3]: We need some guidance on the permissibility of this. Any insight?

Commented [M4]: This conflicts with the notice provisions. The time to remediate violations (at least 21 days) conflicts with the towing remedy which is available 72 hours after giving notice.

The proposed language allows for delivery by multiple means; mailing and hand-delivery. If there is to be a towing provision, the notices will need to include a warning about towing, the notice would have to be placed on the front window of the car. On a side note, you should take pictures showing the location of the notices.

I don't like the use of hours as a measuring stick for deadlines – unless the documents are hand-delivered. There are several ways notice may be provided. The post office has made changes that are supposed to delay the handling even more than is already the case. Rather than stating a deadline as a number of hours, I would use days as the measuring stick. With a 72 hour/3 day compliance provision, it is easier to state the deadline as the close of business on the third day after the date notice is given.

Commented [M5]: Why are you including these provisions?

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~~(6) If the full amount due to the city is not paid by such owner within thirty (30) days after the fee has been paid to the towing company, then the code official shall cause to be recorded in the Finance Department for the City of Frostburg the cost and expense for the towing and storage of abandoned, inoperable, and untagged vehicle(s), and such charge will be carried on the records of the City of Frostburg and shall be collectible in the same manner as real estate taxes are collected.~~

~~(4) *Means of appeal.* Any person directly affected by a decision of the Code Official or a notice or order issued under this section shall have the right to appeal to the City Administrator, provided that a written application for appeal must be filed within ten (10) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the regulations found in this section have been incorrectly interpreted or do not fully apply. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice or order until the appeal is heard by the City Administrator. Any party to the proceeding aggrieved by the decision of the City Administrator shall have the right to note an appeal with the Circuit Court for Allegany County, Maryland; provided, however, that the appeal shall not stay the effect of that decision.~~

(5) *Municipal infraction.* Any person who violates the provisions of this section shall be guilty of a municipal infraction and shall be subject to the penalties provided in this Code. ~~Each day a violation exists shall constitute a separate violation.~~

~~(Ord. No. 2015-04, 6-19-2015; Ord. No. 2022-06, 5-1, 7-21-2022)~~

Commented [M6]: Why are we allowing for an appeal? If the owner is cited and asks for a hearing, that is enough due process. I imagine you would prefer not to serve as the judge and jury

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(Supp. No. 6, Update 1)