
Sponsored by: Mayor Hennessy

AN ORDINANCE AMENDING SECTIONS 500.060 THRU 500.078 OF THE CITY OF O'FALLON CITY CODE AND ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL PROPERTY MAINTENANCE CODE*, AND CERTAIN AMENDMENTS THERETO, AND PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES AND PUNISHMENT FOR VIOLATION THEREOF.

WHEREAS, the City believes it is important to periodically update its health and safety codes to take into account advances in technology, materials and methods of construction; and

WHEREAS, Section 67.280, RSMo. Supp. 2009, authorizes the City of O'Fallon to adopt technical codes of the sort hereinafter referenced by adopting an ordinance which incorporates by reference the provisions of such code or portions thereof and any amendment thereto without setting forth the provisions of such code in full provided that one copy of such code to be so adopted shall be filed in the office of the City Clerk and there kept available for public use, inspection, and examination for a period of ninety days prior to the adoption of the ordinance which incorporates such code, portion, or amendment by reference; and

WHEREAS, a copy of the code referenced and adopted below, has been filed in the office of the city clerk and kept available for public use, inspection, and examination for a period of at least ninety (90) days prior to the adoption of this ordinance and will, following the adoption of this ordinance, be similarly filed and kept available in the office of the City Clerk;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF O'FALLON, MISSOURI, AS FOLLOWS:

Section 1.

Sections 500.060, 500.070, 500.075 and 500.078 of Article II of Chapter 500 of Title V of the Code of Ordinances of the City of O'Fallon, Missouri, are hereby repealed and four new Sections, initially to be designated as Sections 500.060, 500.070, 500.075 and 500.078, are hereby enacted in lieu thereof to read as follows:

TITLE V. BUILDING AND CONSTRUCTION

CHAPTER 500: BUILDING REGULATIONS

ARTICLE II: PROPERTY MAINTENANCE CODE

SECTION 500.060: ADOPTION OF PROPERTY MAINTENANCE CODE

That certain document, a copy which is on file in the office of the City Clerk of the City of O'Fallon, Missouri, being marked and designated as the *International Property Maintenance Code*, 2009 edition including Appendix A, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of O'Fallon, in the State of Missouri 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 therefore; and each and all of the regulations, provisions, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk of the City of O'Fallon, Missouri are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article, with the additions, insertions, deletions and changes, if any, prescribed in Section 500.070 of this Article.

Section 500.070 ADDITIONS, INSERTIONS AND CHANGES

The Following Sections of the Property Maintenance Code adopted in Section 500.060 are hereby revised:

Section 101.1. Title: Delete "[NAME OF JURISDICTION]" and insert "City of O'Fallon, Missouri".

Section 102.3 Application of other codes: Delete "International Zoning Code" and add to the last sentence: "or the Municipal Code, City of O'Fallon, Missouri."

Section 103.1 General: Delete in its entirety and insert: Wherever the term "Jurisdiction" is used, it is deemed to mean the "City of O'Fallon, Missouri" and whenever the expression or term "Code Official" is used, it is deemed to mean "Director of Building Safety or his designee".

Section 103.5. Fees: Delete in its entirety and insert: "Fees related to administration of this Code shall be as set forth elsewhere in this Chapter of the Municipal Code."

Section 110.1 General: Delete in its entirety and insert: The Code Official shall order the owner of any premises on which is located any structure which is found to be detrimental to the health, safety or welfare of the residents of the City of O'Fallon, Missouri, or which is declared to be a public nuisance or a structure which in the Code Official's judgment is so old, dilapidated or has become so unfit for human habitation or occupancy that it is unreasonable to repair the structure, to raze or remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to raze 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 six months, to raze and remove such structure.

Section 110.2 Order Delete in its entirety and insert: Notice shall be deemed to be properly serviced if a copy thereof is (a) delivered to the owner personally; or (b) sent by certified or registered mail addressed to the owner at the last known address with return receipt requested; or (c) a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice, and then by at least one (1) publication in a newspaper of general circulation in the City. The affected parties shall have not less than thirty (30) days from the date of service to complete demolition or to begin repairs. If (a) or (b) cannot be accomplished (c) shall be used.

Section 110.3 Mandatory Demolition or Repair of a Public Nuisance: Delete in its entirety and insert: The following steps shall be taken to effect the mandatory demolition or repair of a structure which is deemed to be detrimental to the health, safety or welfare of the residents of the City of O'Fallon, Missouri, or which is declared a public nuisance.

Add section: Section 110.3.1 Notice of Declaration of Nuisance: A notice of declaration of nuisance and Pre-Hearing order shall be prepared and shall comply with Section 110.2.

Add section: Section 110.3.2 Notice of Hearing: If the affected parties fail to commence work on repairs or complete demolition within the specified timeframe or fail to proceed continuously with the work without unnecessary delay, the Code Official shall call a hearing upon the matter. Notice shall comply with Section 110.2.

Add section: Section 110.3.3 Hearing: The Code Official or duly designated representative of the Code Official shall conduct a full and adequate hearing. Any affected party may be represented by counsel, and all affected parties shall have an opportunity to be heard. After the hearing, if evidence supports a finding that the structure is a nuisance

and detrimental to the health, safety or welfare of the residents of the City of O'Fallon, Missouri, the Code Official shall issue a post hearing order making specific findings of facts, based on competent and substantial evidence and ordering the structure to be demolished and removed, or repaired. The post hearing order shall comply with Section 110.2. The post hearing order shall contain a date for completion of the required action.

Section 110.3.4. Upon Failure to Obey Post – Hearing Order: If any post-hearing order of the Code Official is not obeyed within fifteen (15) days after its issuance, and if appeal of any post hearing order is not made per this chapter, or to the circuit court of any such order, the Code Official may cause such structure to be vacated and repaired or demolished as provided in the post hearing order. The Code Official shall certify the cost for such action, including all administrative cost, to the City Clerk, who shall cause a special tax bill against the property to be prepared, filed and collected. Said tax bill shall be a lien upon said property, said lien shall bear interest at the rate of ten (10) percent per annum, until paid. If paid in installments, the tax bill shall be paid over a period of not more than five (5) years.

Section 111.0 Means of Appeal: Rename section from "Means of Appeal" to "Right to Appeal".

Section 111.2 Appeals Board: Delete in its entirety and insert: The Board of Adjustment shall have jurisdiction to hear all appeals under this code.

Section 111.2.1 through Section 111.7: Delete in its entirety.

Section 112.4 Failure to Comply: Delete "not less than [AMOUNT] dollars or more than [AMOUNT] dollars" and insert "not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00)"

Section 302.4 Weeds: Delete in its entirety and insert "Refer to City of O'Fallon Municipal Code 220.010 Nuisances Prohibited."

Section 304.14. Insert screens: Delete "from [DATE] to [DATE]" and insert "from January 1 to December 31".

Section 602.3. Heat Supply: Delete "from [DATE] to [DATE]" and insert "from January 1 to December 31".

Section 602.4. Occupiable work spaces: Delete "from [DATE] to [DATE]" and insert "from January 1 to December 31".

Section 404.5 Overcrowding: Delete in its entirety and insert "Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5."

Table 404.5

Minimum Area Requirements			
Space	Minimum Area in Square Feet		
	1-2 People	3-5 People	6 or more People
Living Room (*)	No Requirements	120	150
Dining Room (*)	No Requirements	80	100
*may be combined			
For Each Sleeping Room			
Area of Room In Square Feet		# of Persons	
Less than 70 or any kitchen, hall Or public space		May not be used as a Sleeping room	
70 to 99		1 occupant	
100 to 149		2 occupants	
150 to 199		3 occupants	
200 or more		4 occupants plus 1 for each Additional 50 square feet.	
Sleeping rooms must have proper emergency egress			

For SI: 1 square foot = 0.093 m²

- a. See Section 404.5.2 for combined living room/dining room spaces.
- b. See Section 404.5.1 for limitations on determining the minimum occupancy for sleeping purposes.

SECTION 500.075: SAVING CLAUSE AND VALIDITY

A. Nothing in this Article or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

B. If any Section, Subsection, sentence, clause or phrase of this Article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Article. The City of O'Fallon, Missouri, hereby declares that it would have passed this Article, and each Section, Subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more Sections, Subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 500.078: PENALTY

Any person, firm, or corporation violating any of the provisions of this Article or the code hereby adopted, shall upon conviction, for each offense be fined not more than five hundred dollars (\$500.00) or be punished by imprisonment in jail not to exceed three (3) months, or be punished by both fine and imprisonment. Each day's violation of, or refusal or neglect to comply with, any provision of this Article or the code hereby adopted, shall constitute a separate and distinct offense.

Section 2. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of O'Fallon, Missouri hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 3. Nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 4. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days from and after the date of its final passage and adoption.

First Reading: *January 27, 2011*

Second Reading: *February 10, 2011*

PASSED BY THE CITY COUNCIL FOR THE CITY OF O'FALLON, MISSOURI, THIS 10th DAY OF February, 2011.

Bill Hennessy
Presiding Officer

Attest:

Pamela L. Clement
Pamela L. Clement, City Clerk



APPROVED BY THE MAYOR FOR THE CITY OF O'FALLON, MISSOURI
ON THIS 10 DAY OF February, 2011.

Bill Hennessy
Bill Hennessy, Mayor

Attest:

Pamela L. Clement
Pamela L. Clement, City Clerk



Approved as to Form:

Kevin M. O'Keefe
Kevin M. O'Keefe, City Attorney