



**BOARD OF ZONING APPEALS / PROPERTY
REVIEW COMMISSION AGENDA**

Tuesday, February 15, 2022 at 6:30 PM

15 East Franklin Street Bellbrook, Ohio 45305

T (937) 848-4666 | www.cityofbellbrook.org

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF THE MINUTES**
 - [A.](#) Minutes from August 17, 2021 BZA/PRC Meeting
- 4. OLD BUSINESS**
 - A. None
- 5. NEW BUSINESS**
 - A. Administration of Oaths for Board Member Re-Appointments
 - B. Election of Chair and Vice-Chair
 - [C.](#) Property Maintenance Code Proposed Update
- 6. OPEN DISCUSSION**
- 7. AJOURNMENT**

BELLBROOK BOARD OF ZONING APPEALS AND PROPERTY REVIEW COMMISSION
PUBLIC HEARING MINUTES
August 17, 2021

Item A. Section 3, Item

PRESENT: Aaron Burke
Philip Ogrod
Chairperson Meredith Brinegar

ABSENT: Sharon Schroeder

ALSO PRESENT: City Manager Rob Schommer

CALL TO ORDER:

Chairperson Brinegar called the meeting of the Board of Zoning Appeals to order at 6:15 PM. The Secretary called the roll. Mr. Burke, yes; Mr. Ogrod, yes; Chairperson Brinegar, yes.

APPROVAL OF MINUTES:

Mr. Ogrod made a motion to approve the prior minutes of July 20, 2021. This was seconded by Mr. Burke. All were in favor. The motion carried 3-0.

ZONING APPEALS

- **VA 21-02 2136 Lakeman Drive Accessory Structure**

Mr. Schommer presented the staff report. The request is to build a 96 square foot accessory structure five feet from the back and side property lines. The variance from the standard eight-foot set back is due to a hill on the property. There is already a 600 square foot accessory building on the property. This would put the aggregate total of accessory structures on the property over the limit of 600 square feet. The owners plan to use the structure to store lawn and gardening tools. There is a privacy fence around the yard.

Mr. Burke asked about the need due to the house having an attached garage and detached garage on the property now. Mr. Claude said they needed more room for storage.

The Board discussed the case and determined that there were two issues to be decided; the aggregate total, and the five-foot setback. Discussion led to agreement for a variance greater than 600 sf considering the attached garage to the home was converted to a bedroom by the previous owners, leaving the only garage space for the property to be the existing 600 sf detached garage.

BELLBROOK BOARD OF ZONING APPEALS AND PROPERTY REVIEW COMMISSION
PUBLIC HEARING MINUTES
August 17, 2021

Item A. Section 3, Item

Mr. Ogrod made a motion to approve **VA 21-02 A to allow for a 96 square foot structure to be added to the aggregate amount of structures.** Mr. Burke seconded the motion. The Clerk called the roll. Mr. Ogrod, yes; Mr. Burke, yes; Chairperson Brinegar, yes. The variance was approved 3-0.

Mr. Ogrod made a motion to approve **VA 21-02 B to allow for the structure to be placed five feet from the side and rear property lines.** Mr. Burke seconded the motion. The Clerk called the roll. Mr. Ogrod, yes; Mr. Burke, yes; Chairperson Brinegar, yes. The variance was approved 3-0.

- **VA 21-03 1501 Lynlee New Construction**

Mr. Schommer presented the variance request to build a post and beam porch that would extend from the front and side yards. This structure would replace an existing deck. The plans include blending the new roof to fit seamlessly with the existing roof pitch.

Chairperson Brinegar swore in Brett Doudican, the property owner who then described how the plan would remove a small section of privacy fence. The only access to the backyard is through this side. The structure would cover the same area as the existing deck.

Mr. Ogrod asked if the electric will need to be moved. Mr. Doudican said it would along with cable and an existing exhaust fan outlet.

Mr. Burke made a motion to approve **VA 21-03 1501 Lynlee to allow for a covered porch to extend into the front and side yards.** Mr. Ogrod seconded the motion. The Clerk called the roll. Mr. Burke, yes; Mr. Ogrod, yes; Chairperson Brinegar, yes. The variance was approved 3-0.

- **VA 21-06 3544 Ridgeway Accessory Structure**

Mr. Schommer presented the variance case to build a 676 square foot accessory structure which is over the limit of 600 square feet and with a height of 17 feet which is over the 15-foot limit. There was one letter received opposing the variance, but it did not speak to the size.

The Chairperson swore in Thomas Cornelison who owns the property. He explained that he works on his vehicles and needs an adequately sized building to accomplish this comfortably. The owners have been working to remove dead trees along the side of the property where there is also a mound.

PUBLIC HEARING MINUTES

August 17, 2021

They plan to level the ground and the Service Department sees no issue. Mr. Cornelison also explained that he had already ordered the building not knowing about the size restriction.

Mr. Ogrod asked if the owner could decrease the size to the 600 square foot maximum allowed. Mr. Cornelison answered that he had a garage this size previously and it does not allow enough space to work on his vehicles.

The Board discussed the merits of the variances requested. Mr. Burke and Mr. Ogrod referred to the verbiage of the zoning code that states that variances should be considered when there are exceptional conditions or that create a hardship but that are not economic in nature.

Mr. Burke made a motion to **deny VA 21-06 3544 Ridgeway for a 676 square foot accessory structure**. Mr. Ogrod seconded the motion. The Clerk called the roll. Mr. Burke, yes; Mr. Ogrod, yes; Chair Brinegar, yes. The variance was denied 3-0.

Mr. Cornelison asked if he would be able to build a 600 square foot structure. He was told he could but a height of 17 feet would require a variance from code.

Mr. Burke made a motion to approve a variance to **allow for a 17-foot-high structure** to be constructed. Mr. Ogrod seconded the motion. The Clerk called the roll. Mr. Burke, yes; Mr. Ogrod, yes; Chair Brinegar, yes. The variance was approved 3-0.

PROPERTY REVIEW COMMISSION - none**OPEN COMMENT****ADJOURNMENT**

Mr. Ogrod made a motion to adjourn the meeting and it was seconded by Mr. Burke. Chairperson Brinegar adjourned the meeting at 7:27 PM.

Meredith Brinegar, Chair

Rob Schommer, Clerk of Council

1450.01 PURPOSES.

This chapter is enacted for the purpose of establishing minimum standards to govern the condition, ~~maintenance~~maintenance, and rehabilitation of all existing structures; to govern supplied utilities and facilities and other physical things and conditions essential to ~~insure~~ensure that structures are safe, sanitary and fit for occupancy and use; and to govern the condition of dwellings offered for rent. This chapter is also enacted for the purpose of fixing certain responsibilities and duties of owners and occupants of structures, providing for the condemnation of structures unfit for human habitation and the demolition of such structures, and fixing penalties for violations.

1450.02 ADMINISTRATION AND ENFORCEMENT.

(a) Title. This chapter shall be known as the Property Maintenance Code of the City, hereinafter referred to as the Property Maintenance Code or "this Code."

(b) Scope. This Code is enacted to protect the public health, ~~safety~~safety, and welfare in all existing structures, residential and nonresidential, and on all existing premises, as hereinafter provided, by:

1. Establishing minimum maintenance standards for all structures and premises for safety from fire; for space, use and location; and for safe and sanitary maintenance of all structures and premises now in existence;
2. Providing for rehabilitation and re-use of existing structures and allowing differences between the application of the requirements of this chapter to new construction and the application of such requirements to alterations and repairs;
3. Fixing the responsibilities of owners, operators and occupants of all structures; and
4. Providing for administration, ~~enforcement~~enforcement, and penalties.

(c) Intent. This Code shall be construed liberally and justly to ~~insure~~ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

(d) Other Regulations. The provisions of this Code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than those that are provided herein.

(e) Application of Other Codes. Any repairs or alterations to a structure, or changes of use therein, which may be caused directly or indirectly by the enforcement of this Code, shall be done in accordance with the procedures and provisions of the Building Code, the Plumbing Code, and the Mechanical Code.

(f) Existing Remedies. The provisions of this Code shall not be deemed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe, and unsanitary.

(g) Workmanship. All repairs, maintenance work, alterations or installations which are required for compliance with this Code shall be executed and installed in a workmanlike and acceptable manner and installed in accordance with the manufacturer's installation instructions.

(h) Severability. If any section, subsection, paragraph, sentence, clause, or phrase in this Code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Code which shall continue in full force and effect, and to this end the provisions of this Code are hereby declared to be severable.

(i) Saving Clause. This Code shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

(j) Requirements Not Covered by Code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure, or equipment, or for the public safety, health and general welfare, not specifically covered by this Code, shall be determined by the Code Official.

1450.03 BELLBROOK PROPERTY REVIEW COMMISSION (BPRC).

(a) Establishment. In order to execute the purposes declared in this Code, there is hereby created a commission to be called the Bellbrook Property Review Commission (BPRC). The duties and responsibilities of the BPRC are hereby assigned to the Bellbrook Zoning Appeals Board.

(b) Duties of the BPRC.

1. Review suspected violations. The BPRC may, at the request of the Code Official, review any suspected violations of this Code and submit a written recommendation to the Code Official.
2. Review violation orders. When the Code Official requests prosecution of a violation order, the BPRC shall review that violation order. If the Code Official finds that an emergency exists under the provisions of this Code, he or she may request prosecution of that violation order without the review of that violation order by the BPRC. However, the Code Official shall notify the BPRC of the emergency action taken.
3. Hear appeals. The BPRC shall serve as the Code Appeals Board.
4. Hiring of a consultant. The BPRC, with the approval of the City Manager or Council, may, in special instances, temporarily retain the services of a consultant to assist the BPRC in performing its duties.
5. Additional powers. The BPRC shall have all additional powers granted by Council.
6. Conflicts of interest. No member of the BPRC shall vote or participate in the discussion of any question before the BPRC in which he or she has a personal or pecuniary interest.
7. Compensation. Members of the BPRC shall serve without compensation.

(c) Appeal of BPRC Action. Any person, firm or corporation, or any officer, department, board or agency of the Municipality, or any interested elector of the Municipality, who has been aggrieved or affected by any decision of the BPRC, may appeal from such decision in the same manner as appeals are taken from actions of the Board of Zoning Appeals.

1450.10 POWERS AND DUTIES OF THE CODE OFFICIAL.**(a) In General.**

1. The Code Official, to be assigned by the City Manager, shall enforce all the provisions of this Code, except as may otherwise be specifically provided for by other regulations.
2. The Code Official is hereby authorized and directed to enforce the provisions of this Code. The Code Official shall have the authority to render interpretations of this Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Code.

(b) Access by Owner or Operator. Every occupant of a structure or premises shall give the owner or operator thereof, or the agent or employee of the owner or operator, access to any part of such structure or its premises at reasonable times for the purpose of making such inspections, maintenance, repairs, or alterations as are necessary to comply with the provisions of this Code.

(c) Coordination of Enforcement. Inspection of premises, the issuance of notices and orders and the enforcement thereof shall be the responsibility of the Code Official so charged by the jurisdiction. Whenever, in the opinion of a Code Official initiating an inspection under this Code, it is deemed necessary or desirable to have inspections by any other department, the Code Official shall make a reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders which it determines must be issued.

(d) Identification. The Code Official or the Code Official's authorized representative shall disclose proper identification of his or her respective office for the purpose of inspecting any and all buildings and premises in the performance of duties under this Code.

(e) Nonconforming Conditions. If additional nonconforming conditions are encountered during the course of any approved alteration or repair which were not considered or known initially, the Code Official shall have the authority to require compliance with this Code of such additional conditions. The determination of what may be necessary to bring such conditions into compliance shall take into consideration the use of alternatives and equivalent approaches as provided for in this Code. The Code Official shall have the authority to approve construction changes in the field when conditions are encountered which make the originally approved work impractical, provided such changes in approved work can be readily determined to be in compliance with this Code and are requested by the owner or the owner's agent prior to such construction changes. Such changes shall be specifically documented by the owner or the owner's agent, describing the change in work and the reasons and jurisdiction justification for the change, and shall be filed with the permit for the project.

(f) Notices and Orders. The Code Official shall issue all necessary notices and orders to ensure compliance with the requirements of this Code for the safety, health, and general welfare of the public.

(g) Official Records. An official record shall be kept of all business and activities of the department specified in the provisions of this Code, and all such records shall be open to public inspection at all appropriate times and under reasonable regulations established by the Code Official to maintain the integrity and security of such records.

(h) 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 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 identification 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 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.

1450.11 NOTICES AND ORDERS

(a) Informal Resolution of Violation. The Code Official may, at his or her discretion, attempt to informally resolve violations or suspected violations of this Code without issuing the notices and orders in the manner prescribed below. The Code Official shall be encouraged to utilize this procedure to the extent practical to achieve compliance with this Code.

(b) Formal Resolution of Violations; Notice.

1. When the Code Official is unsuccessful in achieving compliance with this Code using the informal procedure prescribed above, or, at his or her discretion, does not utilize the informal procedure described above, then the Code Official shall utilize the following formal procedure to resolve a violation or suspected violation of this Code.

2. Whenever the Code Official determines that there has been a violation of this Code or has reasonable grounds to believe that a violation has occurred, or whenever the Code Official has condemned any structure or equipment under the provisions of this Code, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed below. If the Code Official has condemned the property or part thereof, the Code Official shall give notice to the owner and to the occupants of the intent to placard and to vacate the property or to order equipment out of service.

(c) Form of Notice. Such notice prescribed above shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the reason or reasons why it is being issued;
4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code; and

5. Inform the property owner of the right to appeal to the Bellbrook Property Review Commission. If a property owner desires such an appeal, a notice of appeal must be filed with the Code Official within twenty (20) days from receipt of the notice.

6. When applicable, include a statement of the right to file a lien.

(d) Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

(e) Service on Occupant. When a condemnation order is served on an occupant other than the owner or person responsible for compliance, a reasonable time to vacate the property after noncompliance shall be stated. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.

(f) Penalties. Penalties for noncompliance with orders and notices shall be as set forth in this Code.

(g) Transfer of Ownership. No owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served, shall sell, transfer, mortgage, lease or otherwise dispose of the property to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner 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.

1450.12 MINOR NUISANCES

(a) General. A minor nuisance exists when a property is in violation of any regulations of this Code, unless the condition of the property has deteriorated to such a condition that enforcement under Sections 1450.13, 1450.14 or 1450.15 are determined more appropriate.

(b) Notice. Whenever the Code Official has determined a violation of the property maintenance standards set forth in this Code exists, and such conditions, as they exist endanger public health, welfare, or safety, or materially interfere with the peaceful enjoyment of the occupants of such property or the owner or occupants of adjacent property, the Code Official shall issue a notice according to Section 1450.11.

(c) Abatement. Upon failure of the owner to correct the minor nuisance within the time specified in the notice, the Code Official or designated agent shall cause the minor nuisance to be abated through any available public agency or by contract or arrangements by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(d) Cost of Abatement. Costs incurred in the performance of minor nuisance abatement shall be paid by the City. The City Manager shall take action to put a lien on the property consistent with Ohio law where the unsafe structure is or was located for the recovery of such costs. The costs may include all labor, equipment, or other materials to correct or remove such nuisance and an administrative fee.

1450.13 UNSAFE STRUCTURES AND EQUIPMENT

(a) General. When a structure or part thereof or equipment is found by the Code Official to be unsafe, or when a structure or part thereof is found unfit for human occupancy or use, or is found unlawful, it may be condemned pursuant to the provisions of this Code and may be placarded and vacated. It shall not be reoccupied without approval of the Code Official. Unsafe equipment may be placarded and placed out of service.

(1) Unsafe Structures. An unsafe structure is one in which all or part thereof is found to be dangerous to life, health, property, or the safety of the public or its occupants because it does not provide minimum safeguards for protection from fire or because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that it is likely to partially or completely collapse.

(2) Unsafe Equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure, which is in such disrepair or condition that it is found to be a hazard to life, health, property, or the safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

(3) Structure Unfit for Human Occupancy. A structure is unfit for human occupancy or use whenever the Code Official finds that it is unsafe or unlawful, or because of the degree to which it lacks maintenance, is in disrepair, is unsanitary, is vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because its location constitutes a hazard to its occupant or to the public.

(4) Unlawful Structures. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under the Zoning Code, or to have been or to be erected, altered, or occupied contrary to law.

(b) Closing of Vacant Structures. If the structure or part thereof is vacant and unfit for human habitation, occupancy or use and is not in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure ~~closed-up-secured~~ so it will not be an attractive nuisance. Upon failure of the owner to ~~close-up-secure~~ the premises within the time specified in the order, the Code Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(c) Whenever the Code Official has Condemned a structure under the provisions of this Section, Notice shall be issued according to Section 1450.11.

(d) Placarding. Upon the failure of the owner or person responsible to comply with the notice provision within the time given, the Code Official shall post on the premises a placard bearing the word "Condemned" and a statement of the penalties provided in for occupying the premises or removing the placard.

(1) Removal of Placard. The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and 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 subject to the penalties provided by this Code.

(e) Prohibited Occupancy. Any person who shall occupy a placarded premises or structure or part thereof, or shall use placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises which has been Condemned shall be liable for the penalties provided by this Code.

1450.14 EMERGENCY ORDERS.

(a) In General. Whenever a Code Official finds that an emergency exists on any premises, or in any structure or part thereof, or on any defective equipment, which emergency requires immediate action to protect the public's health and safety or that of the occupants thereof, the Code Official may, with proper notice and service in accordance with the provisions of this Code, issue an order reciting the existence of such an emergency and requiring the vacation of the premises or such action taken as the Code Official deems necessary to meet such emergency. Notwithstanding other provisions of this Code, such order shall be effective immediately, and the premises or equipment involved shall be placarded immediately upon service of the order.

(b) Hearing. Any person to whom such an order is directed shall comply therewith. Such person may thereafter, upon petition directed to the Code Official, be afforded a hearing as prescribed in this Code. Depending upon the findings of the Bellbrook Property Review Commission (BPRC) at such hearing as to whether the provisions of this Code and the rules and regulations adopted pursuant thereto have been complied with, the BPRC shall continue such order or modify or revoke it.

1450.15 DEMOLITION.

(a) In General. The Code Official may order the owner of premises upon which is located any structure or part thereof which, in the Code Official's judgment, is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and cannot reasonably be repaired, to raze and remove such structure or part thereof, or, if it can be made safe by repairs, to repair it and make it safe and sanitary or to raze it and remove it at the owner's option, or, where there has been a cessation of normal construction without completion of any structure for a period of more than two years, to raze and remove such structure or part thereof.

(b) Unreasonable Repairs. Whenever the Code Official determines that the cost of such repairs would exceed 100 percent of the current value of such structure, such repairs shall be presumed to be unreasonable and it shall be presumed, for the purpose of this section, that such structure is a public nuisance which may be ordered to be razed without option on the part of the owner to repair. Any such affected property owner may appeal the decision of the Code Official to the Bellbrook Property Review Commission.

(c) Order. The order shall specify a time within which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record, or upon an agent where an agent is in charge of the building, and upon the holder of any encumbrance of record, in the manner provided for service of a summons by a court of record. If the owner or a holder of an encumbrance of record cannot be found, the order may be served by posting it on the main entrance of the building and by publishing it once each week for three successive weeks in a newspaper authorized to provide service of publication.

(d) Restraining Actions. Anyone affected by any such order may, within twenty days after service of such order, apply to a court of record for an order restraining the Code Official from razing and removing such structure or parts thereof.

(e) Failure to Comply. Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Code Official may take action pursuant to the provisions of the Ohio Revised Code.

(f) Salvage Materials. When any structure has been ordered to be razed and removed, the governing body or other designated officer under such contract or arrangement aforesaid may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be 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.

1450.16 MEANS OF APPEAL.

(a) Application for Appeal. Any person directly affected by a decision of the Code Official, or a notice or order issued under this Code shall have the right to appeal to the Bellbrook Property Review Commission (BPRC), provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means.

(b) Open Hearing. All hearings before the BPRC shall be open to the public. The appellant, the appellant's representative, the Code Official, and any person whose interests are affected shall be given the opportunity to be heard.

(c) BPRC Decision. The BPRC shall hear all appeals relative to the enforcement of this Code, and by a concurring vote of the majority of its members may reverse or affirm wholly or partly, or may modify, the decision appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring votes shall be deemed a confirmation of the decision of the Code Official.

(d) Official Records. An official record shall be kept of all business and activities of the BPRC.

1450.20 GENERAL

(a) Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this Code, have the meanings shown in this chapter.

(b) Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

(c) Terms not Defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(d) Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this Code, they shall be construed as though they were followed by the words "or any part thereof."

1450.21 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Approved by the Code Official.

BASEMENT. That portion of a building which is partly or completely below grade.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

DETACHED. When a structural element is physically disconnected from another, and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. 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 a said lot or lots.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GUARD. 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.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

JUNK. Scrap metal, scrap tin, scrap brass, scrap copper, scrap lead, or scrap zinc and all other scrap metals and their alloys and bones, rags, used clothes, used rubber, used rope, used tin foil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable and unrepairable in their existing condition, but are subject to being dismantled, and other vehicles or other conveyances that are wrecked, dismantled, or in worn out condition, or unfit for operation as a motor vehicle, and unusable and unrepairable in their existing condition.

LET FOR OCCUPANCY OR LET. 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.

NEGLECT. The lack of proper maintenance for a building or structure.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building or having possession of a space within a building.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm, or corporation having a 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.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PREMISES. A lot, plot or parcel of land, easement, or public way, including any structures thereon.

PUBLIC WAY. Any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated, or otherwise permanently appropriated to the public for public use.

SLEEPING UNIT. 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.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership, or group, ~~whether or not~~whether the legal owner of record, occupying a building or portion thereof as a unit.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner, e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

1450.30 GENERAL REQUIREMENTS.

(a) Scope. The provisions of this Code shall govern the minimum conditions and the responsibilities for maintenance of structures, equipment, and exterior property.

(b) Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements. A person shall not occupy as owner-occupant 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 Code.

(c) Vacant Structures and Land. All vacant structures and premises thereof or vacant land shall be maintained 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.

1450.31 EXTERIOR PROPERTY AREAS.

(a) Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The owner or occupant shall keep that part of the exterior property which such owner or occupant occupies or controls in a clean and sanitary condition, free from all trash, rubbish, garbage, junk, and other refuse or discarded material required to be removed.

(b) Grading and Drainage. Excluding approved retention and reservoirs, all premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. No stormwater (including sump pump discharge) shall be discharged so as to accumulate and create an unsafe condition on any abutting property. No stormwater shall be discharged in a manner that creates a public nuisance.

(c) Sidewalks and Driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

(d) Vegetation. All premises and exterior property shall be maintained free from weeds or plant growth in accordance with Chapter 678 of the Bellbrook Municipal Code.

(1) All plant materials, including trees and shrubs, afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material, shall be removed or appropriately treated, and dead trees and shrubs and “high risk” trees that pose an imminent danger to subject property or adjacent properties shall be removed. All sound plant materials, including trees and shrubs, shall be properly maintained and have no evident signs of neglect.

(2) All lawns, hedges, bushes, trees, and other vegetation shall be kept trimmed and shall not be permitted to become overgrown and unsightly where exposed to public view or where such vegetation may constitute a blighting influence on adjoining property.

(e) Rodent Harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

(f) Exhaust Vents. Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(g) Accessory Structures. All accessory structures, including but not limited to detached garages, sheds, permanent outdoor play equipment, lighting fixtures, fences and walls shall be always maintained structurally sound and in good repair.

(1) Swimming Pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

(h) 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 or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(i) Defacement of Property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

(j) Outside Storage. In ~~residential-commercial~~ zones, all outdoor storage shall be effectively screened from view and storage of miscellaneous items must be within enclosed structures or screened as required in the Zoning Code. In residential zones, all items shall be stored within an enclosed structure,

unless the item is traditionally used for outdoor activity or use. No person shall accumulate, cause to be accumulated, or allow to be accumulated junk upon any property located within the City.

(k) Storage of Firewood. Firewood must be stacked ~~and piled~~ in a reasonably compact and orderly fashion in the side or rear of property or in an enclosed structure.

(l) Brush Piles. Brush piles are not permitted in a front yard and are limited to one per property.

(m) Construction Equipment. Unless construction equipment is actively being used for construction purposes on the property upon which the equipment is located, all construction equipment must not remain outside more than fifteen days.

(n) Remedy Vacant or Unattended Properties. Whenever the Code Official becomes aware of the existence of a vacant or unattended property which has not been maintained in a clean, safe and sanitary manner, the Code Official shall give or cause to be given as provided in this Code, to the owner of the property, written notice of such violation and requiring the unclean, unsafe or unsanitary conditions to be removed. If an owner fails to remove the unclean, unsafe or unsanitary conditions within the time specified on the notice and order, the Code Official may remove or cause to be removed the unclean, unsafe, unsanitary conditions and may employ the necessary labor to perform such work or cause it to be done by the appropriate City Department.

(o) Drainage Ways. Owners are obligated to maintain drainage ways in the same manner as the rest of their property. These tasks include all normal and routine maintenance such as mowing grass and weeding, removing brush and other vegetation, removing obstructions such as fallen trees and limbs and policing their yards for litter and other debris. Drainage ways shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon.

(1) Drainage Swales. Swales are to be maintained by the owners of the parcels on which they are located, and at no time shall anyone plant shrubs and/or trees in, or discharge, empty or place any material, fill or waste into, any swale so as to divert or impede drainage flow.

(p) Garbage and Rubbish Containers. The owner and operator of every establishment producing garbage, vegetable wastes or other putrescible materials shall provide, and at all times cause to be used, leakproof approved containers provided with closely fitting covers for the storage of such materials until removed from the premises for disposal. Properly constructed compost piles shall be exempted. Trash containers shall be removed from the public right of way not later than twenty-four hours after trash pick-up. The containers shall be returned to the public right-of-way area not earlier than twenty-four hours before the next trash pick-up.

1450.32 EXTERIOR STRUCTURE.

(a) In General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the health, safety or welfare.

(b) Protective Treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained 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 water tight. 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. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(c) Street Numbers. Each structure to which a street number has been assigned shall have such a number displayed in a position easily observed and readable from the public way and be a minimum of three (3) inches in height.

(d) Structural Members. All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

(e) Foundation Walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(f) Exterior Walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

(g) Roofs and Drainage. The roof and flashing shall be sound, tight and not have defects that admit rain penetration. 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 repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

(h) Decorative Features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(i) Overhang Extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, 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) Stairways, Decks, Porches and Balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(k) Chimneys and Towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. 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.

(l) Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(m) Window, Skylight and Door Frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

1. Openable Windows. Every window, other than a fixed window, shall be capable of being easily opened.

2. Glazing. All glazing materials shall be maintained free from cracks and holes.

(n) Insect Screens. During the period from April 1 to December 1, every door and window or other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than sixteen mesh per inch and every screen door used for insect control shall have a self-closing device in good working condition. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

(o) Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Every door available as an exit shall be capable of being opened from the outside.

(p) Basement Hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

(q) Guards for Basement Windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

(r) Building Security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

1450.90 EXISTING STRUCTURES.

(a) Alterations or Repairs.

1. Alterations or repairs, other than increasing the height or area of a structure, may be made to any structure without requiring the existing structure to comply with all requirements of this Code for new construction, provided such work conforms to the requirements of this Code. Alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building.

2. Alterations or repairs to an existing structure which are nonstructural and do not adversely affect any structural member or any part of the structure having a required fire-resistance rating, may be made with the same materials of which the structure is constructed.

3. Anything to the contrary herein notwithstanding, this Code shall not require the alteration of a lawful structure, existing on the effective date of the adoption or amendment of this Code, that could not be built under the terms of this Code. Such a lawfully nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

B. Should such nonconforming structure or nonconforming portion of a structure be destroyed by any means to an extent of more than fifty percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Code.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of this Code.

(b) Other Ordinances. This Code establishes minimum requirements for the initial and continued occupancy and use of all structures and premises and does not replace or modify requirements otherwise established by ordinance which may be additional or more stringent for the construction, repair, alteration or use of structures, equipment or facilities

1450.99 VIOLATIONS: LEGAL AND EQUITABLE REMEDIES.

(a) Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Code.

(b) Any person failing to comply with a notice of violation or order served in accordance with this Code shall be deemed guilty of a misdemeanor of the fourth degree and shall not be fined more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, and the violation shall be considered a strict liability offense.

(c) 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.

(d) Any action taken by the City on such premises shall be charged against the real estate upon which the structure is located and shall be certified to the County Auditor for collection, the same as other taxes and assessments are collected.

(e) A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(f) Nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation.

