

A call for Compromise.

I'm sure it is not the intent of the City to discriminate against minorities living in rental properties in Jonesboro. However, the Eight Circuit Court of Appeals in a recent ruling (*Magner v Gallagher*) has found that an intent to discriminate was not necessary in order for discrimination to be present. In fact the case involved a housing code, specifically a rental housing code and to quote the court

“Appellants are not required to show that the policy or practice was formulated with discriminatory intent.”

“Viewed in the light most favorable to Appellants, the evidence shows that the City’s Housing Code enforcement temporarily, if not permanently, burdened Appellants’ rental businesses, which indirectly burdened their tenants. Given the existing shortage of affordable housing in the City, it is reasonable to infer that the overall amount of affordable housing decreased as a result. And taking into account the demographic evidence in the record, it is reasonable to infer racial minorities, particularly African-Americans, were disproportionately affected by these events. “

The case is from St. Paul, where the city apparently decided to target irresponsible landlords and in the process unintentionally caused an adverse or disparate impact on minority tenants. Rents were raised and the availability of affordable housing decreased, and it was the low income citizens that suffered. The facts in that case are very similar to the circumstances before us today. It is worth noting that Arkansas lies within the jurisdiction of the Eight Circuit Court of Appeals.

On June 25th of 2015, the legal concept of “disparate impact” came before the US Supreme Court and by a 5-4 vote, “disparate impact”, for better or worse became the law of the land. In Judge Alito's dissenting opinion he expressed his exasperation and specifically pointed to the *Magner v Gallagher* case saying “even St. Paul's good-faith attempt to ensure minimally acceptable housing for its poorest residents could not ward off a disparate-impact lawsuit.”

All this leads to the question at hand; Is the City of Jonesboro prepared to take on the legal battles that are already being fought over similar codes in other cities? The Eight Circuit and the US Supreme Court have opened the door for lawsuits regarding codes that target landlords and inadvertently minority tenants.

The mayor has asked if both sides can reach a compromise, and the opponents have offered to support exterior inspections only. Apparently that is not acceptable to the proponents. I cannot speak for other landlords, nor the NEALA; however, I did stumble upon a possible compromise and oddly enough it came from the Eight Circuits ruling in the aforementioned *Magner v Gallagher* case.

It seems that before taking a more aggressive approach, the City of St. Paul had a program in place called “Problem Properties 2000” This program

“embodied a flexible and cooperative approach to code enforcement, which achieved the goals of code enforcement while maintaining a consistent supply of affordable housing. In support, they point to the Progress Report, which describes meetings with property owners as “very productive in gaining the cooperation of owners to step up their efforts towards improving their properties and the neighborhoods they are in.” The report described a “good working relationships and lines of communication with these owners,” which resulted in “owners working hard to be pro active in maintaining their

properties.” The report concluded, “[T]he program has been effective in eliminating complaints against the participating owners.”

Reading this reminded me of the successful relationships that many landlords have experienced with the Jonesboro Quality of Life Unit. This unit exemplifies the idea of “flexible and cooperative approach to code enforcement” described by the court. Instead of working against landlords and tenants, they come along side us and work with us to resolve issues with the code and with problem tenants, as well as tenants concerns.

My proposed compromise is to take instruction from the court, and use a system that they have already deemed reasonable and would “significantly reduce the impact on protected class members”. This approach, based on the Jonesboro Quality of Live Unit model, should meet with much less resistance from landlords because they have proven to be “flexible and cooperative”, they have sought to help solve problems in a productive manner rather than fine, penalize and frustrate landlords and tenants. There is an opportunity to pass a reasonable code that would give the Quality of Live Unit more “teeth” to use when needed to motivate owners of “problem properties” without creating the obvious problems presented by the blanket approach and heavy handed penalties contained in the proposed code.

Let the big cities fight the legal battles. Are our problems so bad and the “blight” so terrible that we are willing to wage a constitutional battle over an oppressive code. Can we not get really specific and adopt a simple and short code that will allow an already successful program, the Jonesboro Quality of Life Unit to have a bit more power in certain situations, and ask them to continue their policy of working with property owners first rather than attacking them, and when necessary elevate their enforcement with uncooperative owners?

Let's work together to pass a code that makes sense for the City of Jonesboro, not New York City, or Dallas, or Miami, not St. Paul or even Little Rock. Let's adopt an ordinance that respects our citizens right to privacy, and protects our minorities from the disparate impacts of over-regulation. Let's pass a code that doesn't hinder growth and commerce, and restrict home sales and cause declining property values, a code that doesn't create costly litigation and conflict. I join the mayor in calling for reasonable compromise.

Sincerely,
John Hill
4317 Annadale, Jonesboro AR

Content taken from the Eight Circuit Court of Appeals ruling (Gallagher v Magner)

“On appeal, Appellants identify as a viable alternative the City’s former program for Housing Code enforcement called “Problem Properties 2000” (“PP2000”).⁶ A “Progress Report” prepared by City employees in charge of PP2000 lists the goals and tactics of PP2000: identification of properties with a history of unresolved or repeat Housing Code violations, meeting with the owners individually, encouraging the owners to take a more business-like approach to managing their properties, keeping closer tabs on changes of ownership, and using consistent inspectors at each property. Appellants contend that PP2000 embodied a flexible and cooperative approach to code enforcement, which achieved the goals of code enforcement while maintaining a consistent supply of affordable housing. In support, they point to the Progress Report, which describes meetings with property owners as “very productive in gaining the cooperation of owners to step up their efforts towards improving their properties and the neighborhoods they are in.” The report described a “good working relationships and lines of communication with these owners,” which resulted in “owners working hard to be pro active in maintaining their properties.” The report concluded, “[T]he program has been effective in eliminating complaints against the participating owners.” These conclusions are corroborated by statements from a member of the PP2000 inspector group (Jeff Hawkins); a code enforcement officer (Appellee Dick Lippert); and Appellant Frank Steinhauser. Thus far, the City has not argued that PP2000 would be more costly or would fail to accomplish the objectives of Housing Code enforcement. Rather, the City⁶ The district court stated that Appellants abandoned PP2000 as a proposed alternative. However, Appellants argued for four pages in their joint brief in opposition to summary judgment that PP2000 was an alternative to the City’s “heavy code enforcement.” Appellants did not expressly abandon PP2000 as an alternative during the summary judgment hearing, and therefore we will consider it in this appeal. -20- asserts that PP2000 would not reduce the alleged impact on protected class tenants. The district court agreed with the City, explaining, “Because participating landlords were not excused from compliance with the Housing Code, they would still incur the same costs of compliance with the housing code, leaving any alleged discriminatory effect on African-Americans unchanged.” Steinhauser, 595 F. Supp. 2d at 999 n.9. This reasoning, however, fails to appreciate that Appellants complain about how the City enforced the Housing Code—not just the code’s standards and requirements. Appellants offer evidence that the challenged enforcement practices burdened rental property owners and thereby reduced affordable housing options. There is also evidence that PP2000 generated a cooperative relationship with property owners, achieved greater code compliance, and resulted in less financial burdens on rental property owners. It is reasonable to infer from these facts, viewed most favorably to Appellants, that PP2000 would significantly reduce the impact on protected class members. Thus, there is a genuine dispute of fact regarding whether PP2000 was a viable alternative to the City’s aggressive Housing Code enforcement practices.

2014

EXHIBIT "A" EXTERIOR PROPERTY MAINTENANCE ORDINANCE

CHAPTER 1
SCOPE AND ADMINISTRATION

TABLE OF CONTENTS

CHAPTER 1 SCOPE AND ADMINISTRATION	1
PART 1—SCOPE AND APPLICATION.	1
Section	
101 General	2
102 Applicability.	2
PART 2—ADMINISTRATION AND	
ENFORCEMENT.	3
Section	
103 Department of Property Maintenance	
Inspection	3
104 Duties and Powers of the Code Official	3&4
105 Approvals	4
106 Violations	4&5
107 Notices and Orders	5
108 Unsafe Structures and Equipment	5, 6&7
109 Emergency Measures	7
111 Means of Appeal.	7&8
112 Stop Work Order	8
CHAPTER 2 DEFINITIONS	9
Section	
201 General	9
202 General Definitions	9&10
CHAPTER 3 GENERAL REQUIREMENTS	10
Section	
301 General	10
302 Exterior Property Areas	10
304 Exterior Structures	11&12
307 Handrails and Guardrails	13
APPENDIX A BOARDING STANDARD.	14
Section	
A101 General	14

A102 Materials 14
A103 Installation 14

PART 1 — SCOPE AND APPLICATION
SECTION 101
GENERAL

[A] **101.1 Title.** These regulations shall be known as the *Exterior Property Maintenance Ordinance* of [NAME OF JURISDICTION], hereinafter referred to as “this code.”

[A] **101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, for protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners*, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

[A] **101.3 Intent.** This code shall be construed to secure its expressed intent, which is to 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.

[A] **101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102
APPLICABILITY

[A] **102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

[A] **102.2 Maintenance.** Safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, *operator* or *occupant* shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress.

The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be responsible for the maintenance of buildings, structures and *premises*.

[A] **102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the Arkansas Fire Prevention Code Volume 1, 2 and 3, Arkansas Mechanical Code, Arkansas Plumbing Code, National Electrical Code,

[A] **102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

[A] **102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

[A] **102.6 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures which have been designated as historic buildings when such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

[A] **102.8 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 *Chief Building Official or inspector*.

[A] **102.10 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT SECTION 103

DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

[A] **103.1 General.** The Position of property maintenance inspector is hereby created and the executive official in charge thereof shall be known as the *Chief Building Official*

[A] **103.2 Appointment.** The *inspector* shall be appointed by the Mayor.

[A] **103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *Chief Building Official shall* have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *Chief Building Official*.

[A] **103.4 Liability.** The Deputy or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *Chief Building Official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

[A] **103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule. Based on current fee schedule as already adopted by council for building permits.

SECTION 104

DUTIES AND POWERS OF THE CODE OFFICIAL

[A] **104.1 General.** The *Chief Building Official or inspector* is hereby authorized and directed to enforce the provisions of this code. The *Chief Building Official* shall have the authority to render interpretations of this code in order to clarify the application of its provisions. Such interpretations shall be in compliance with the intent and purpose of this code. X

[A] 104.1.1 Standard Operating Procedures and Policies: See Attached

[A] **104.2 Inspections.** The *Inspector* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *Chief Building Official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the Mayor.

[A] **104.4 Identification.** The *Inspector* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

[A] **104.5 Notices and orders.** The *Inspector* shall issue all necessary notices or orders to ensure compliance with this code.

[A] **104.6 Department records.** The *Inspector* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

[A] **105.1 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the *Chief Building Official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the *Chief Building Official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

[A] **105.2 Alternative materials, methods and equipment.**

The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *Chief Building Official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

[A] **105.4 Used material and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and *approved* by the *Chief Building Official*.

[A] **105.5 Approved materials and equipment.** Materials, equipment and devices *approved* by the *Chief Building Official* shall be constructed and installed in accordance with such approval.

SECTION 106 VIOLATIONS

[A] **106.1 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.

[A] **106.2 Notice of violation.** The *Chief Building Official or inspector* shall serve a notice of violation or order in accordance with Section 107.

[A] **106.3 Prosecution of violation.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 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 *Chief Building Official or Inspector* 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 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.

[A] **106.4 Violation penalties.** Any person, who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a continuous offense. ?

[A] **106.5 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 107 NOTICES AND ORDERS

[A] **107.1 Notice to person responsible.** Whenever the *inspector* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code.

[A] **107.2 Form.** Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

[A] **107.3 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 addressed 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.

[A] **107.4 Unauthorized tampering.** Signs, tags or seals posted or affixed by the *inspector* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *inspector*.

[A] **107.5 Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

[A] **107.6 Transfer of ownership.** It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order 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 order has 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 *inspector* and shall furnish to the *inspector* 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.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

[A] **108.1 General.** When a structure is found by the *inspector* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code. Structure will be turned over to Chief Building Official for inspection for condemnation

[A] **108.1.1 Un-safe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by being so damaged, decayed, dilapidated, and structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

[A] **108.1.3 Structure unfit for human occupancy.** A structure is unfit for human *occupancy* whenever the *inspector* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair Or lacks maintenance, is insanitary, vermin or rat infested, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public. Refer to Section 108.1

[A] **108.1.4 Unlawful structure.** An unlawful structure is one found in whole or in part to have been erected, altered or occupied contrary to law.

[A] **108.1.5 Dangerous structure or premises.** For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure

for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is determined by the *inspector* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *inspector* to be a threat to life or health.

[A] **108.2 Closing of vacant structures.** If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *inspector* is authorized to post a placard of Vacant structure no admittance allowed on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the *inspector* 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 and may be collected by any other legal resource.

[A] **108.2.1 Authority to disconnect service utilities.**

The *inspector* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *inspector* shall notify the serving utility and, whenever possible, the *owner* and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

[A] **108.7 Record.** The *inspector* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition. The report shall be kept in a locked file cabinet until removed for archiving with the department.

SECTION 109 EMERGENCY MEASURES

[A] **109.1 Imminent danger.** When, in the opinion of the *inspector*, there is *imminent danger* of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *inspector shall immediately notify the Chief Building Official*

[A] **109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the *inspector*, there is *imminent danger* due to an unsafe condition, the *inspector* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *inspector* deems necessary to meet such emergency.

[A] **109.4 Emergency repairs.** For the purposes of this section, the *inspector* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

[A] **109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

[A] **109.6 Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Board of Adjustment and Appeals, be afforded a hearing as described in this code.

SECTION 111 MEANS OF APPEAL

[A] **111.1 Application for appeal.** Any person directly affected by a decision of the *Chief Building Official* or a notice or order issued under this code shall have the right to appeal to the board of adjustment and appeals, 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 there under 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.

[A] **111.2 Membership of board.** The Board of Adjustments and Appeals shall consist of a minimum of three members who are qualified by experience to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *Chief Building Official* shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the Mayor and Approved by the Council, and shall serve staggered and overlapping terms.

[A] **111.2.1 Alternate members.** The Mayor shall appoint a minimum of two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

[A] **111.2.2 Chairman.** The board shall annually select one of its members to serve as chairman.

[A] **111.2.3 Disqualification of member.** A member shall not hear an appeal, in which that member has a personal, professional or financial interest.

[A] **111.2.4 Secretary.** The City Clerk or person designated by the City Clerk shall serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

[A] **111.3 Notice of meeting.** The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

[A] **111.4 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the *Chief Building Official or inspector* and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.

[A] **111.4.1 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

[A] **111.5 Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

[A] **111.6 Board decision.** The board shall modify or reverse the decision of the *Chief Building Official or inspector* only by a concurring vote of a majority of the total number of appointed board members.

[A] **111.6.1 Records and copies.** The decision of the board of adjustments and appeal shall be recorded. Copies shall be furnished to the appellant and to the *Chief Building Official*.

[A] **111.6.2 Administration.** The *code official* shall take immediate action in accordance with the decision of the board.

[A] 111.7 Court review. Decision of the Board may be appealed to the Craighead County Circuit Court

[A] 111.8 Stays of enforcement. Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Adjustment and Appeals.

SECTION 112

STOP WORK ORDER

[A] 112.1 Authority. Whenever the *inspector* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *inspector* is authorized to issue a stop work order.

[A] 112.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

[A] 112.3 Emergencies. Where an emergency exists, the *inspector* shall not be required to give a written notice prior to stopping the work.

[A] 112.4 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 liable to a fine of not less than \$100.00 dollars or more than \$500.00dollars.

CHAPTER 2 DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 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. ?

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes. ?

201.4 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.

201.5 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."

SECTION 202
GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

[A] **APPROVED.** *Approved* by the *code official*.

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

[A] **CODE OFFICIAL.** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

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.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

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

[B] **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.

[A] **LABELED.** Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

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

[A] **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.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

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

[A] **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.

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

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.

[A] **STRUCTURE.** That which is built or constructed or a portion thereof.

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

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

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. 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 chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* which they occupy and control.

301.3 Vacant structures and land. All vacant structures 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.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

302.5 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 re-infestation.

302.7 Accessory structures. All accessory structures, including *detached* garages, and walls, shall be maintained structurally sound and in good repair.

SECTION 304
EXTERIOR STRUCTURE

304.1 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 public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *Arkansas Fire Prevention Code 2012 Volume 2 and 3 and 2012 Existing Building Codes* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and are not properly *anchored* or are not capable of supporting all nominal loads
And resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that is anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

304.2 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 in excess of 15% 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.

304.4 Structural members. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 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*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. 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.

304.8 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.

304.9 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.

304.10 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.

304.11 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.

304.12 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.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.15 Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition.

304.18 Building security. Doors, windows or hatchways for *dwelling units* shall be provided with devices designed to provide security for the *occupants* and property within.

**SECTION 307
HANDRAILS AND GUARDRAILS**

307.1 General. Every exterior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces.

Guards shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

APPENDIX A

BOARDING STANDARD

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

A101 GENERAL

A101.1 General. All windows and doors shall be boarded in an *approved* manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

A102 MATERIALS

A102.1 Boarding sheet material. Boarding sheet material shall be minimum $\frac{1}{2}$ -inch (12.7 mm) thick wood structural panels complying with the *International Building Code*.

A102.2 Boarding framing material. Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

A102.3 Boarding fasteners. Boarding fasteners shall be minimum $\frac{3}{8}$ -inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

A103 INSTALLATION

A103.1 Boarding installation. The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

A103.2 Boarding sheet material. The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

A103.3 Windows. The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

A103.4 Door walls. The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured

with screws and nails alternating every 6 inches (152 mm) on center.

A103.5 Doors. Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manner.

A104 REFERENCED STANDARDS

IBC—12 International Building Code A102.1, A102.2, A102.3

JONESBORO HOUSING

11-1-15

HUD

1291 PRESENTLY ON SECTION 8
COULD HAVE 1342 IF FUNDS AVAILABLE
152 PUBLIC HOUSING
70 JB SUNSET GARDENS = ELDERLY

1069 ON WAITING LIST
WAITING TIME 1½ YEARS

OF THE ONES ON WAITING LIST
61 HOMELESS
223 DISABLE
53 ELDERLY

HELPING HANDS ON HUNTINGTON
800 FAMILIES MONTHLY

JET RIDERS THRU OCT.

88,210

UNITED WAY

714 PRE SCHOOL BOOKS MONTHLY

71,000 MEALS PER YEAR PER

872 LEGAL AID ASSISTANCE YEAR

2,085 DOMESTIC VIOLENCE PER YEAR

AMER RED CROSS

7 TO 9 DISASTER ASSISTANCE WEEKLY

SALVATION ARMY

NO NUMBER FOR YEAR TO DATE
TURN AWAY HOMELESS DAILY
THIS TIME OF YEAR

CAN STAY 7 DAYS FREE

AFTER 7 DAYS IF HAVE JOB
10.00 PER DAY

CAN STAY UP TO 3 MONTHS

CAN ACCOMMODATE

12 MEN

4 LADIES

6 FOR FAMILY OF 4