

BILL 10741

ORDINANCE 10584

AN ORDINANCE ADOPTING THE 2015 INTERNATIONAL EXISTING BUILDING CODE, WITH MODIFICATIONS, AS THE EXISTING BUILDING CODE OF THE CITY OF KIRKWOOD, REGULATING AND GOVERNING THE REPAIR, ALTERATION, CHANGE OF OCCUPANCY, ADDITION AND RELOCATION OF EXISTING BUILDINGS, INCLUDING HISTORIC BUILDINGS, AS HEREIN PROVIDED IN THE CITY OF KIRKWOOD; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE;

WHEREAS, the ISO has recommended the City update its Building Codes, and

WHEREAS, the Building Commissioner's Office reviewed the Building Codes and recommends adoption of the 2015 International Existing Building Code with modification, and

WHEREAS, the Chief Administrative Officer has approved the recommendation of the Public Services Department to update the Existing Building Code,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, as follows.

SECTION 1. That Section 5-2 (c) of the Kirkwood Code of Ordinances is hereby deleted and the following inserted in lieu thereof.

“SECTION 5.2 (c) EXISTING BUILDING CODE: The provisions of the “2015 International Existing Building Code” as modified, is hereby adopted as the City's Existing Building Code. See separate publication and adopting modification ordinance on file in the office of the city clerk ”

SECTION 2 That a certain document, which is on file in the office of the city clerk of the City of Kirkwood, Missouri, being marked and designated as “2015 International Existing Building Code” as published by the International Code Council, is hereby adopted as the mechanical code of the City of Kirkwood, Missouri For the control of buildings and structures as herein provided; and each and all of the regulations of the 2015 Existing Building Code, are hereby referred to, adopted and made apart hereof, as if fully set out in this ordinance.

SECTION 3 That throughout the “2015 International Existing Building Code”, wherever the term “jurisdiction” is used, it is deemed to mean City of Kirkwood, and wherever the expression “code official” is used, it is deemed to mean the Building Commissioner.

SECTION 4. That the "2015 International Existing Building Code", is amended by additions, deletions and changes including the changing of articles, sections, subsections, and subsection titles and the addition of new sections and subsections so that such amended and added articles, sections and subsections shall read as follows:

Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted, or amended, as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto

## **Chapter 1** Scope and Administration

**Section 101.1** – Amended to read as follows, Title: These regulations shall be known as the Mechanical Code of the City of Kirkwood Hereinafter referred to as “this Code”.

**Section 101.4.3** – is added to read as follows; Damaged Structures: If a structure is damaged by high wind, fire, or flood, the renovation shall be considered an alteration and comply with Sections 403.1.2 through 403.1.6

**Section 101.4.4** is added to read as follows; Alterations Exceeding 50 Percent: If alterations or repairs are to be made within any period of twelve (12) consecutive months, costing in excess of fifty percent (50%) of the physical value of the structure, the requirements of this code for new structures shall apply. At the discretion of the Code Official, alterations required to resist earthquake loads may be phased as renovations to different portions of a structure occur

**Section 101.4.5** – is added to read as follows; Damages Exceeding 50 Percent: If the structure is damaged by fire or any other cause to an extent in excess of fifty percent (50%) of the physical value of the structure before the damage was incurred, this code's requirements for new structures shall apply

**Section 101.4.6** – is added to read as follows; Alterations Under 50 Percent: If the cost of alterations or repairs to be made within any period of twelve (12) consecutive months, is between five and fifty percent (5% - 50%) of the physical value of the structure, the Code Official shall determine to what degree the portions so altered or repaired shall be made to conform to the requirements for new structures to insure the safety, health and general welfare of the occupants and the public

**Section 101.4.7** – is added to read as follows, Alterations Under 5 Percent.. If the cost of alterations or repairs to be made within twelve (12) consecutive months is five (5%) or less of the physical value of the structure, the Code Official shall permit the restoration of the structure to its condition previous to damage or deterioration with the same kind of materials as those of which the structure was previously constructed, provided that such construction does not endanger the general safety and public welfare and maintains the life safety provisions of the code.

**Section 101.4.8** – is added to read as follows; Physical Value. In applying the provisions of this section, the physical value of the structure shall be determined by the Code Official

**Section 103.1** – amended to read as follows; Creation of Building Department The Kirkwood Building Department is hereby created and the official in charge shall be the Building Commissioner of the City of Kirkwood or his duly authorized representative.

**Section 105.1.1** Annual Permit - Delete in its entirety and add: Integrated Permits. The code official for the building code may issue integrated building; plumbing, electrical and/or mechanical permits on a single permit application.

**Section 105.1.2** Annual permit records- Delete in its entirety and add Applicant Responsibility The integrated permit applicant shall be responsible for the return to the code official of the plumbing, electrical and/or mechanical permit form with the name, signature and license number of the appropriate subcontractor Any change in the identity of the named subcontractor after issuance of the permit must be by special application and shall result in the assessment of a transfer fee as specified.

**Section 108.2** – is amended to read as follows; Fees. Fees shall be established as prescribed in Chapter 5, Article VI of the Code of Ordinances of the City of Kirkwood.

**Section 108.6** - delete in its entirety

**Section 112.1** – Amended to read as follows, Appeals: The owner of a building or structure or any other person having interest in said building or structure may appeal from a decision of the code official to the Board of Appeals appointed under the provisions of the Kirkwood Building Code, Chapter 1- Scope and Administration, Section 113- Board of Appeals

Application for appeal may be made when it is claimed that the true content of this code has been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of installation or construction can be used.

**Section 112.2** through **Section 112.3**. delete in their entirety

**Section 113.4** – Delete in its entirety and add Violation Penalties. Any person, firm or corporation who shall violate any provision of this ordinance, or who shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter or repair a structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of the ordinance, or shall start any work requiring a permit without first obtaining a permit therefore, or who shall continue any work in or about a structure after having been served a stop work order, except for such work which that person, firm or corporation has been directed to perform to remove a

violation or unsafe condition, or any owner or tenant of a building or premises or any other person who commits, takes part or assists in any violation of this code or who maintains any building or premises in which such violation shall exist, shall be guilty of a misdemeanor punishable by a fine as prescribed in Section 1.8 of the Code of Ordinances of the City of Kirkwood.

**Section 114.3** - amend last sentence of Stop Work Orders to read “Any person who shall continue any work in or about the structure 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 guilty of a misdemeanor punishable by a fine as prescribed in Section 1.8 of the Code of Ordinance of the City of Kirkwood ”

**Section 115.1** – is amended to read as follows; **Purpose** and scope It is the purpose of this article to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures which may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or to the general public, and this article shall apply to all unsafe structures, as herein defined, which are now in existence or which may hereafter exist in the City of Kirkwood, Missouri

**Section 115.2** – is amended to read as follows, **Unsafe** structures defined. All buildings or structures which have any or all of the following defects shall be deemed “unsafe structures”

**Section 115.2.1** – is added to read as follows; Those whose interior walls or other vertical structural members lift, lean, or buckle to such an extent that a plumb line passing through the center gravity falls outside the middle third of its base.

**Section 115.2.2** – is added to read as follows, Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting members, or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering

**Section 115.2.3** – is added to read as follows; Those which have improperly distributed loads upon the floor or roofs, or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purposes used

**Section 115.2.4** – is added to read as follows; Those which have been damaged by fire, wind or other causes or as to become dangerous to life, safety, or the general health and welfare of the occupants or the people of the City of Kirkwood, Missouri

**Section 115.2.5** – is added to read as follows, Those which are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness, disease, or as injury to the health, safety or welfare of those occupying such building.

**Section 115.2.6** – is added to read as follows, Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live herein.

**Section 115.2.7** – is added to read as follows; Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

**Section 115.2.8** – is added to read as follows; Those which have parts thereof which are so attached that they may fall or injure members of the public or property

**Section 115.2.9** – is added to read as follows, Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city

**Section 115.2.10** – is added to read as follows; Those structures which are partially constructed and the construction activities have been abandoned for a period of six months or longer

**Section 115.2.11** – is added to read as follows; Those which contain an illegal or improper occupancy.

**Section 115.2.12** – is added to read as follows; Those which have inadequate maintenance.

**Section 115.2.13** – is added to read as follows; Those which are vacant structures that are not secured against entry

**Section 115.2.14** – is added to read as follows; Those which have an unstable foundation

**Section 115.2.15** – is added to read as follows, Those which are partially or completely collapsed

**Section 115.2.16** – is added to read as follows; Those which contain unsafe equipment or material

**Section 115.3** – is amended to read as follows, Unsafe structures declared a public nuisance: All “unsafe structures,” within the terms of Section of this article, are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided herein.

**Section 115.4** – is amended to read as follows, Standards for repair, vacation or demolition The following standard shall be followed in substance by the building commissioner in ordering repair, vacation or demolition of any “unsafe structure”

**Section 115.4.1** – is added to read as follows; If the “unsafe structure” can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.

**Section 115.4.2** – is added to read as follows, If the “unsafe structure” is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired

**Section 115.4.3** – is added to read as follows, In all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished.

**Section 115.4.4** – is added to read as follows; In all cases where an “unsafe structure” is a fire hazard existing or erected in violation of the terms of this article or any ordinance of this city or statute of the State of Missouri, it shall be repaired or demolished.

**Section 115.5** – is amended to read as follows, Duties of building commissioner, procedure and notice The building commissioner shall have the duty under this article to

**Section 115.5.1** – is added to read as follows; Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist which render such places as “unsafe structures” when he/she has reasonable grounds to believe that any such building is dangerous.

**Section 115.5.2** – is added to read as follows; Inspect any building, wall or structure about which complaints are filed by any person to the effect that violation of this article, and the building commissioner shall determine if there are reasonable grounds to believe that such building is unsafe.

**Section 115.5.3** – is added to read as follows, Inspect any building, wall or structure reported by fire or police departments of this city as probably existing in violation of this article.

**Section 115.5.4** – is added to read as follows, Notify in writing, either by personal services or by certified mail, return receipt requested, or if service cannot be had by either of those modes of service (it) may be had by publication in a newspaper qualified to public legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St Louis County of any building found by him be an “unsafe structure” within the standards set forth in Section 119.2 of this article

The notice required shall state that. (1) the owner must vacate, vacate and repair, or vacate and demolish such building in accordance with the terms of the notice and this article, (2) the occupant or lessee must vacate said structure or have it repaired in accordance with the notice, (3) the mortgagee, agent or other persons having an interest

in said structure as shown by the land records or the recorder of deeds of the county wherein the land is located, may, at his/her own risk, repair, vacate or demolish or have such work done, provided, that any person notified under this subsection to repair, vacate or demolish any structures shall be given such reasonable time not exceeding thirty (30) days to commence the required work unless in the judgment of the building commissioner it is determined to be necessary to extend such time to commence the work.

**Section 115.5.5** – is added to read as follows, The notice provided for in this section shall state a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure an “unsafe structure” and an order requiring the designated work to commenced within the time or extension thereof, provided for in the above subsection

**Section 115.5.6** - is added to read as follows; In the event the owner does not commence the work as required herein and pursuant to the notice set forth in Section 119.5.4, the building commissioner shall give additional notice to those persons, in the manner specified herein, that he/she shall conduct a hearing upon the matter. Such notice shall specify that a hearing shall be held at the place specified therein, that any party may be represented by counsel and that all parties shall have an opportunity to be heard. Such notice must be mailed at least twenty-one (21) days prior to such hearing.

**Section 115.5.7** – is added to read as follows; After the hearing, if the evidence supports the finding that the building or structure is unsafe or detrimental to the health, safety or welfare of the residents, as defined herein, the building commissioner shall issue an order, making specific findings of fact based upon competent and substantial evidence ordering the building or structure to be vacated, repaired, or demolished and removed.

**Section 115.5.8** – is added to read as follows, Upon the issuance of an order, as set forth in subsection 119.5.7 above, the building commissioner shall notify the affected parties of their rights to appeal such decision to the board of Building Appeals within 30 days of the issuance of the Order.

**Section 115.6** – is added to read as follows, Duties of the Board of Building Appeals Any owner, occupant, lessee, mortgage agent, or other person having an interest in the property may, within thirty days from the issuance of the Order of the Building Commissioner, appeal the decisions of the Building Commissioner. Such appeal shall be in accordance with the procedures set forth in Article IV of the Kirkwood Code of Ordinances, Section 5-65 through 5-68.

**Section 115.7** – is added to read as follows; If the owner, occupant, mortgagee or lessee fails to comply with a final order of demolition, as provided herein, within thirty (30) days, the building commissioner shall cause the building or structure to be repaired, vacated or demolished, and shall certify the charge for such repair, vacation or demolition to the City Clerk as a special assessment, represented by a special tax bill, against the real property affected, said tax bill shall be a lien upon said property and be enforced to the

same extent and in the same manner as all the special tax bills. Except as provided in Subsection 119.7.1, at the request of the taxpayer, this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of eight (8) percent per annum until paid

**Section 115.7.1** – is added to read as follows; As to damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, if any order is issued by the building commissioner or his designee, as provided in this section, and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner as well as a tax lien on the property until paid. If there are proceeds of any insurance policy based upon a covered claim payment in excess of 50% of the face value of the policy covering a building or structure and the proceeds of such policy are made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, the insurer shall withhold from the covered claim payment up to ten percent of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section

The City shall release the proceeds and any interest which has accrued on such received proceeds to the insured or as the terms of the policy and endorsements thereto provide within thirty days after receipt of such insurance moneys, unless the city has instituted legal proceedings, under the provisions of this section. If the city has proceeded under the provisions of this section, all moneys in excess of that necessary to comply with the provisions of this section for the removal of the building or structure, less salvage value, shall be paid to the insured

This subsection shall not make the city or county a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy

**Section 115.8** – is added to read as follows; Appeal: Any owner, occupant, lessee, mortgagee, agent or any other person having an interest in an “unsafe structure” as shown by the land records of the recorder of deeds of the county wherein the land is located, may, within thirty (30) days from the order of the Board of Building Appeals, appeal such decision pursuant to the procedures established in Chapter 536 of the Revised Statutes of Missouri

**Section 115.9** – is added to read as follows; Emergencies. In case where it reasonably appears that there is immediate danger to the health, life or safety of any person unless an “unsafe structure” as defined herein is immediately repaired, vacated or demolished, the building commissioner may cause the immediate boarding up of all openings, or otherwise take such action as may be necessary to prevent hazardous conditions, including the vacation of such unsafe structures. The costs of such emergency boarding up, repair, vacation or demolition of such unsafe structure shall be collected in the same manner as provided in Section 115.7, of this article



**Section 115.10** – is added to read as follows, Violations. disregarding or removing notices or orders The owner, occupant or lessee in possession of any unsafe structure who shall fail to comply with a final order to repair, vacate or demolish said structure given pursuant to this section, shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 114 of this article

**Sections 116 and 117** delete in its entirety

**Chapter 14** Performance Compliance Methods

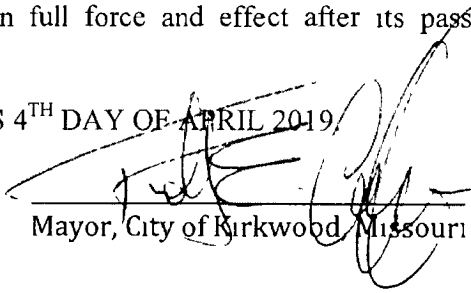
**Section 1401.2** – is amended to read as follows; Compliance. Structures existing prior to October 18, 1926, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this section or the provisions of Chapters 5 through 13 The provisions in Sections 1401.2.1 through 1401 2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S, and U These provisions shall not apply to buildings with occupancies in Group H or I.

SECTION 5 Nothing in this ordinance or in the Existing Building Code hereby adopted shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance

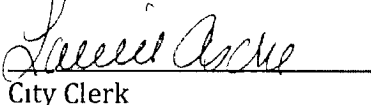
SECTION 6 If any section, subsection, provision, sentence, clause or phrase of this ordinance or of the “2015 International Existing Building Code” or of the amendments to the “2015 International Existing Building Code” is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance or of said Code, and the City of Kirkwood hereby declares that it would have passed the same even though such portions so held to be unconstitutional had not been included therein

SECTION 7. This ordinance shall be in full force and effect after its passage and approval, as provided by law

PASSED AND APPROVED THIS 4<sup>TH</sup> DAY OF APRIL 2019.

  
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Mayor, City of Kirkwood, Missouri

ATTEST:

  
\_\_\_\_\_  
City Clerk

1<sup>st</sup> Reading: March 21, 2019

2<sup>nd</sup> Reading: April 4, 2019