

Memorandum

DATE: March 22, 2023

TO: City Council

FROM: Glenn Denman, Code Administration Manager

RE: Evaluating the term “abandoned” in the context of the IPMC and Inoperable Vehicles

At the March 7, 2023 City Council meeting, Councilmember Cousens requested that the City Council revisit its discussion regarding whether or not to adopt a definition for “abandoned” in the International Property Maintenance Code, (IPMC). The Council previously determined that such a definition was unnecessary after a presentation by City Staff which is summarized as follows:

1. Black’s Law Dictionary defines abandonment as “The relinquishing of a right or interest with the intention of never again claiming it.” In evaluating enforcement under the IPMC, if the code enforcement officials intended to do enforcement based on a property being “abandoned” they would have to fit it within the definition. Also, note section 3 below.
2. Section 201.4 states that terms not defined “shall have ordinarily accepted meanings such as the context implies”. This is also how Washington State courts evaluate words that are not defined when the court is tasked with reviewing actions of the government.
3. The term “abandoned” is not a sole descriptive term used to describe conditions of property, structures or items for code compliance cases in the City of Yakima. Other terms are also used in context, (some are coupled with “abandoned”) such as: decayed, hazardous, neglected, faulty (construction), inadequate maintenance, damage, unstable, disrepair, defective, warped, worn loose, torn, detached, dilapidated, unsafe, insanitary, unfit (for human habitation), deterioration, dangerous, inoperable and vacant. Many of these terms are equally descriptive, are otherwise defined, and describe actual physical conditions.

There are two areas of the IPMC in which the word “abandoned” is used. First, Section 108.1.5.3 states: “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... shall be considered to be dangerous.” In this section, although the term abandoned is used, the key thing that is evaluated by the codes division is whether there is a likely collapse of a structure. If there is, then the structure is considered dangerous and can be closed to occupancy and subject to further enforcement action.

Similarly, in Section 108.1.5.7, “The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children... or for committing a nuisance or an unlawful act . . .shall be dangerous.” Again, the key is whether the structure has become an attractive nuisance—the codes decision does not rest solely on whether the structure is abandoned.

A property may be abandoned, but that does not cause a violation in and of itself. It is the condition of the property that determines whether a violation of the IPMC has occurred. For example, an abandoned house is not a violation of the IPMC until the house's condition deteriorates to the point of meeting one of the elements outlined in Section 108 (or other sections) of the IPMC.

The definition of inoperable vehicle also contains the word abandoned. That definition is as follows:

“Inoperable motor vehicle. A vehicle that 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.”

There are many ways a vehicle can be deemed “inoperable” under the IPMC. The Codes Division doesn’t need to evaluate whether a vehicle is abandoned because vehicles also meet one of the other reasons under the code definition of inoperable motor vehicles—most often that the vehicle is unlicensed or incapable of being moved under its own power. The Codes Division need not prove that all of those instances occur; they need only prove one to move forward with enforcement.

Although the term “abandoned” is not defined, courts and the code are clear—undefined words in code sections are given their dictionary definition. As such, there is a definition for the word “abandoned” that is used by the Codes Division in the event they are going to base an enforcement action on whether a property or vehicle is abandoned.

After review of the material presented herein, adding a definition of the term “abandoned” to the IPMC is not necessary, would be redundant, and does not enhance enforcement proceedings, in staff opinion.