

SECTION 103
DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

[A] 103.1 General. The code administration division is responsible for carrying out the provisions of this code. The code administration manager, or his or her designee shall be known as the code official.

[A] 103.2 Appointment. The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

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

[A] 103.4 Liability. The *code official*, ~~member of the board of appeals~~ 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 civilly or criminally 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. Nothing provided in this chapter shall create any duty on the city to enforce any specific law or code section or abate any specific condition or circumstance which may exist. The code official shall exercise sound discretion and shall maintain enforcement actions as resources permit.

[A] 103.4.1 Legal defense. Any suit or criminal complaint 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 code 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 incurred by the City for activities and services performed by the department in carrying out its responsibilities under this code, including but not limited to recording fees and title search fees, shall be paid by any person or owner violating this code.

SECTION 104
DUTIES AND POWERS OF THE CODE OFFICIAL

[A] 104.1 General. 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.

[A] 104.2 Inspections. The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. 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 *code official* is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

[A] 104.3 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 credentials 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*, owner's authorized agent 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.

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

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

[A] 104.6 Department records. The *code official* 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.

104.15 Permits Required. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the codes of the jurisdiction, or to cause such work to be performed shall obtain the required permits in accordance with the laws of the jurisdiction.

SECTION 202 GENERAL DEFINITIONS

ABATE. To repair, replace, remove, paint over, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the code official determines appropriate in the interest of the general health, safety and welfare of the public. For the purposes of this chapter, when the city abates graffiti under Section 110, abate means only to paint over.

ANCHORED. Secured in a manner that provides positive connection.

[A] APPROVED. Acceptable to the *code official*.

ATTRACTIVE NUISANCE. A nuisance which whether in or on a building, a building premises or an unoccupied lot, and whether realty, fixture, or chattel, which might reasonably be expected to attract children of tender years and constitute a danger to them, including, but not limited to: broken or missing windows and doors; unsecured buildings or structures; abandoned wells; ice boxes or refrigerators with doors and latches; shafts; basements or other excavations; abandoned or inoperable vehicles or other equipment; structurally unsound fences or other fixtures; lumber; vegetation; or other debris.

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

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

CITY PROPERTY. Property owned by the city, including but not limited to, real and personal property, trees, utility poles, garbage cans and dumpsters.

[A] 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*.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals. **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.

DRIVEWAY. The private traveled path to or through a property which extends in a straight line from a legally established curb cut intended for the access of such driveway. In the case of circular driveways, it is the improved surface that connects one legally established curb cut to another.

[A] 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.

[Z] 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 said lot or lots.

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*.

FRONT YARD. The open area extending along and parallel to the entire length of the front lot line and measured from the property line to the structure.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GRAFFITI. The unwanted defacing, damaging or destroying by painting by whatever means or marking of ink, chalk, dye, or other similar substances or placement of stickers or appliques on public or private buildings, structures or places.

[BE] 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.

[BG] HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.*

HAZARDOUS VEGETATION. Vegetation that is dry and combustible exceeding twelve inches in height which may cause a fire hazard to the immediate and surrounding areas. Hazardous vegetation can include, but is not limited to, trees, shrubs, grass, weeds, bushes, vines and other plant materials, including but not limited to clippings, fallen leaves or branches.

HEALTH OFFICER. The head of the Yakima Health District or their authorized deputies or representatives.

[A] HISTORIC BUILDING. Any building or structure that is one or more of the following: 1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places. 2. Designated as historic under an applicable state or local law. 3. Certified as a contributing resource within a National Register or state or locally designated historic district. **HOUSEKEEPING UNIT.** A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating that does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

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

IMPROVED SURFACE. A surface covered with gravel, cement, pavers, asphalt, brick, or other approved materials.

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

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 is extensively damaged, such damage including, but not limited to any of the following: broken or missing headlights, taillights, broken or missing window or windshield, or missing wheels, tires,

motor or transmission, is apparently inoperable; or- is incapable of being moved under its own power.

~~**JUNK MOTOR VEHICLE.** A vehicle that meets at least three of the four following requirements: (1) is three years old or older; (2) is extensively damaged, such damage including, but not limited to, any of the following: a broken window or windshield, or missing wheels, tires, motor or transmission; (3) is apparently inoperable; or (4) has a fair market value equal only to the value of the scrap in it.~~

[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, *approved* 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.

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*.

NUISANCE. A nuisance is: (1) a nuisance defined by statute or ordinance; (2) a nuisance at common law, either public or private; (3) an attractive nuisance; (4) hazardous vegetation; (5) uncleanness, unsanitary conditions, or whatever is dangerous to human life or detrimental to health; (6) overcrowding; (7) abandonment or vacancy; or (8) any violation of this code.

[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* that is let or offered for *occupancy*.

[A] OWNER. Any person, agent, *operator*, firm or corporation having 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.

[A] 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.

PRIVATE CONTRACTOR. Any person with whom the city shall have duly contracted to abate a condition that is in violation of this code.

PROPERTY. Any land which is affixed, incidental or appurtenant to land, including, but not limited to, any business or residence, parking area, loading area, landscaping, building, fence or structure, or any separate part, unit or portion thereof.

PROPERTY MANAGER. Any person or entity who has a contract with an owner to manage real property.

[A] PUBLIC WAY. Any street, alley or other parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated or otherwise permanently appropriated to the public for public use; and has a clear width and height of not less than 10 feet (3048 mm).

RECREATIONAL VEHICLE. Any snowmobile, watercraft, golf cart, motor home, camper, camp trailer, all-terrain vehicle, or other vehicle in which the primary use is recreation and not everyday use.

REPEAT OFFENDER. An owner or tenant who has committed the same code violation more than one time in a 24 month period. The repeat violation occurs after the person has corrected an earlier violation of this code, the case has been abated and closed, and the person is found to have committed the same violation again.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage. The term shall include, but is not limited to: the residue from the burning of wood, coal, coke and other combustible materials; paper; rags; cartons; boxes; wood; excelsior; rubber; leather; tree branches; yard trimmings; tin cans; metals; mineral matter; glass; old rope; old iron, copper, tin and lead; empty bottles; sacks; parts of machinery; parts of stoves and other appliances; scrap metal of all kinds; abandoned or inoperable vehicles and other equipment; parts of vehicles; motor vehicle tires; furniture items and parts of furniture and appliance items, and parts or appliances intended for use inside a structure; materials and debris resulting from a fire including detached partially burned lumber; and other similar materials.

- Exceptions:**
1. Firewood that is stored and stacked in an approved manner.
 2. Storage of 12 or less motor vehicle tires stored in an approved manner.
 3. Approved motor vehicle tire storage regulated by other sections of the Yakima Municipal Code.

[A] 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.

[A] STRUCTURE. That which is built or constructed. **TENANT.** A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit. **TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and that shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

UTILITY TRAILER. A licensed, nonmotorized vehicle, which is intended to be towed behind another vehicle.

[M] 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.

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

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. Exterior property and premises shall be maintained in a clean, safe and sanitary condition and shall not constitute a nuisance. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition, so as not to constitute a nuisance, or contain rubbish or garbage in violation of this code.

302.2 Grading and drainage. Premises shall be graded and maintained to prevent accumulation

of stagnant water within any structures located thereon.

302.3 Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions in accordance with the codes and ordinances of the City of Yakima.

302.4 Weeds. Premises and exterior property shall be maintained free from hazardous vegetation in excess of 12 inches in height. Upon failure of the owner or agent having charge of a property to cut and destroy such vegetation after service of a notice of violation, they shall be subject to prosecution in accordance with section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, and after proper notification has been given to the owners (unless the conditions constitute an imminent danger), any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

302.5 Rodent harborage. 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 that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 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 on abutting or adjacent public or private property or that of another *tenant*.

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

302.8 Motor vehicles. Except as provided for in other regulations, inoperative ~~or unlicensed~~ motor vehicles shall not be parked, kept or stored on any *premises*, and vehicles shall not 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.

302.98-1 Parking in the front yard. No utility, recreational, or motor vehicle, and/or utility trailer may be parked upon the front yard of a residence or business unless such vehicle or trailer is parked upon an improved surface driveway.

Exceptions:

1. This provision shall not apply to properties located within the area north of Viola, south of Alder, west of I-82 and east of South 8th Street during the dates set forth for the operation of the Annual Central Washington State Fair and the Fourth of July celebration occurring on the Central Washington State Park Grounds.

2. This provision shall not apply to licensed motor vehicle repair, sales, storage or other approved vehicle-oriented businesses.

302.108-2 Unattended Vehicles. Leaving vehicles unattended on blocks, jacks, ramps or otherwise elevated above the ground is prohibited, unless, when unattended, the vehicle is enclosed in a garage, surrounded by a fence or screened from view and access in an approved manner by other means. Nothing in this section shall be construed to be an approval to store vehicles in an unlawful manner.

302.119 Defacement of property. A person shall not 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.

302.110.1 Graffiti abatement program.

A. Graffiti and other defacement of public and private property, including walls, rocks, bridges, fences, gates and other structures, trees and other real and personal property within the city, constitutes a nuisance. The city council finds that graffiti is also associated with criminal street gang activity pursuant to RCW 9A.48.105 and YMC 6.11.025 and that proliferation of graffiti promotes criminal street gangs and criminal street gang activity. Such activity constitutes an immediate threat to the life, health, safety and property of residents of the city. Procedures herein requiring abatement, following notice and opportunity to appeal, are necessary and will preserve and protect the life, health, safety and property of residents of the city.

B. Although it is appropriate, where possible, to request that the courts require people who are convicted of acts of defacement and vandalism involving application of graffiti to public or private property to restore the property so defaced, damaged or destroyed, apprehension of persons who commit such acts is difficult because the offenses involved can be committed quickly and surreptitiously so that witnesses to the acts are frequently nonexistent.

C. Although the public should be encouraged to cooperate in the elimination of graffiti by reporting the same to the proper authorities, it is also important to eliminate the presence of graffiti from the community so that the product of the illegal acts of those involved in application of graffiti is not visible and the property on which the graffiti is located and surrounding properties do not suffer diminution of value.

302.110.1.1 City abatement program—Request for assistance.

Subject to availability of funding and personnel, the city makes available a graffiti abatement program. Owners of property within the city, and any owner who receives a notice issued pursuant to Section 302.10.2 to abate graffiti may request assistance from the city's graffiti abatement program to abate graffiti placed on their property. Participation in such graffiti abatement program shall include the following:

302.110.1.2 Release from liability. Applicant shall sign a consent and release from liability form approved by the city authorizing city personnel and/or its contractors to enter upon the owner's property for the purpose of abating the graffiti. Upon execution, such consent and release shall be in effect pursuant to the terms and conditions of the document. Any consent and release may be revoked in writing by the owner and/or property manager and/or tenant at any time.

302.110.1.3 Abatement by City. The city or its contractors may abate the graffiti. Graffiti abated by the city shall be only by application of paint provided by the city or contractor. Matching paint is not guaranteed. The city will only paint over graffiti and will not remove it through sand blasting or other means.

302.110.1.4 Acceptance into program. For applicants who have received a notice issued pursuant to Section 302.10.2 to abate graffiti, acceptance into the city's graffiti abatement program shall stay the five-day compliance requirement, or such other compliance deadline established in such notice by the code official unless otherwise notified by the city.

302.110.1.5 Limitations. The city or its contractors shall not authorize nor undertake to provide for the painting of any more extensive area than the area where the graffiti is located.

302.110.1.6 Program modifications. The city reserves the right to establish, modify and amend its graffiti abatement program, and to define by rule or policy standards of eligibility for participation, methods of abatement and scheduling of abatement activities.

302.110.1.7 City abatement program—Priorities. There may not always be adequate funding or personnel for the city abatement program outlined in YMC 11.40.110. When funding and/or personnel is limited, the following priority may be established for service to those property owners who have entered the program:

- (1) Single-family residential zoned properties and city property;
- (2) Two-family residential zoned properties;
- (3) Multifamily residential zoned properties;
- (4) CBD zoned properties;
- (5) All other commercial zoned properties;

(6) Manufacturing zoned properties.

Entry into the graffiti abatement program is not a guarantee of service. If adequate funding or personnel is not available, the property owner/property manager and tenant (if applicable) will be notified that they are responsible for the abatement of graffiti on the property.