

ORDINANCE 2011-10

**AN ORDINANCE AMENDING TITLE 13
OF THE BELLE MEADE MUNICIPAL CODE
TO INCLUDE A NEW CHAPTER 3
ENTITLED "MAINTENANCE CODE"**

BE IT ORDAINED BY THE CITY OF BELLE MEADE, as follows:

On the recommendation of the Board of Commissioners that the City should adopt certain provisions of the International Property Maintenance Code, as edited for the specific purposes and needs of the City of Belle Meade, in order to assure and maintain the health, safety, welfare and appearance of the premises and property within the City of Belle Meade, and to impose certain minimum standards of care for the maintenance of such property and premises, the City of Belle Meade acts to amend its Municipal Code to add Chapter 3 of Title 13 of the Belle Meade Municipal Code. This amendment shall impose standards in addition to, and not in supplement of, the provisions of Chapter 1 and Chapter 2 of Title 13 of the Belle Meade Municipal Code.

Section 1:

The Municipal Code of the City of Belle Meade is hereby amended to include as Chapter 3 of Title 13 the following:

**Chapter 3
Belle Meade Maintenance Code**

13-301. Preamble. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of their Lot, Dwelling,¹ other structures and equipment on their Lot, collectively referred to herein as the "Premises."

13-302. Unlawful Acts. The following actions or inactions by any person within the City of Belle Meade are declared to be unlawful:

- (1) It shall be unlawful for a person to be in conflict with or in violation of any of the provisions of Title 13, Chapter 3 of this code.
- (2) Any person failing to comply with a Notice served in accordance with Section 13-309 shall be deemed guilty of a misdemeanor. If the Notice is not complied with, the City 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 Premises in violation of the provisions of the Belle Meade Maintenance Code or of the order or direction made pursuant thereto.
- (3) No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by

¹ "Lot" is defined at Section 14-201(a)(2)(m) of the Belle Meade Municipal Code and "Dwelling" is defined at 14-201(a)(2)(e) of the Belle Meade Municipal Code.

placing thereon any marking, carving or graffiti.

13-303. General Standard of Care. The owner of the Premises shall maintain it in compliance with these requirements, except as otherwise provided for in this code.

- (1) 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. Both Owner and Occupants of the Premises are responsible for keeping the Premises in a clean, sanitary and safe condition.
 - (a) Premises and/or structures that do not comply with Title 13-201 *et seq.* of the Code of the City of Belle Meade are not in a safe condition and do not comply with the requirements of this Chapter.
- (2) This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare of persons occupying Premises insofar as they are affected by the continued occupancy and maintenance of structures and premises.
- (3) Existing 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.

13-304. Vacant Dwellings and Structures. All Premises, and all vacant land, dwellings and structures, shall be maintained in a clean, safe, secure and sanitary condition as provided herein and to assure the public health or safety.

13-305. Maintenance of the Premises.

- (1) The Premises and all exterior property shall be maintained in a clean, safe and sanitary condition.
- (2) All Lots shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon, and shall comply with all other provisions of this Code.
- (3) All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- (4) All Premises shall be maintained free from overgrown landscaping, weeds or plant growth in excess of twelve (12) inches.
 - (a) All noxious weeds shall be prohibited.
 - (b) Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.
- (5) Swimming pools, hot tubs and spas, including all fences, covers or other safety features required in connection with swimming pools, hot tubs or spas, shall be maintained in a clean and sanitary condition, and in good repair.
- (6) All improvements required by the Board of Zoning Appeals as a condition to the grant of a building permit shall be maintained in good condition and in good repair.
 - (a) Insofar as landscaping was required by the Board Zoning Appeals, it shall be installed, maintained and, when necessary, replaced.
 - (b) The Premises shall be maintained in accordance with the applicable Building Code.
- (7) All Lots shall be free from any accumulation of rubbish or garbage. As is further described in Title 17 of the Code of the City of Belle Meade, every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

- (a) "Rubbish" is defined as follows: Combustible and noncombustible waste materials, except garbage; the term shall include 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, crockery and dust and other similar materials.
- (b) Every occupant of the Lots shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers in accordance with regulations issued by the City of Belle Meade.

13-306. Maintenance of the Exterior of a Structure.

- (1) The exterior of the Premises and the exterior of any 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.
- (2) All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
- (3) 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.
- (4) The roof and flashing shall be sound, tight and not have defects that admit rain. 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (9) Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
- (10) All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

13-307. Rodent and Insect Harborage. All Premises and exterior property shall be kept free from rodent and insect harborage and infestation. Where rodents or insects are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate harborage and prevent re-infestation.

13-308. Notice of Violation.

- (1) The City Manager of the City of Belle Meade is hereby directed to cause to be made regular inspections of all Premises in the City of Belle Meade to determine if any violation of the Belle Meade Maintenance Code exists.
- (2) In the event that the City Manager determines that there exists a potential violation of the Belle Meade Maintenance Code, the City Manager shall prepare a draft Notice of Violation ("Notice"), prepared in accordance with subsection (3) herein, setting forth the Code Section of the Belle Meade Maintenance Code that is under review, describing the nature of the violation and appending to the draft Notice photographs or other documentation of the violation and, if appropriate, the cost to correct such violation.
- (3) Any Notice, including the draft Notice referenced above, shall be prepared as follows:
 - (a) Be in writing.
 - (b) Include a description of the Premises and the Owner of the Premises; additionally, insofar as it is appropriate to the Notice, the Notice shall identify Occupants of the Premises.
 - (c) Include a statement of the violation or violations and why the Notice is being issued.
 - (d) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the Premises or structure into compliance with the provisions of this Code.
 - (e) Inform the Owner of the right to hearing before the Board of Building Code Appeals on a date set forth in the Notice.
 - (f) Include a statement directing the Owner to the range of remedies available to the City in accordance with Section 13-309.
- (4) The draft Notice prepared in accordance with Subsection (3) herein shall be presented to Board of Building Code Appeals for review along with all supporting information, after which the Board of Building Code Appeals shall make a determination how to proceed.
 - (a) The Board of Building Code Appeals may direct any additional investigation that it determines necessary to its decision.
 - (b) If the Board of Building Code Appeals determines that a Notice should issue, then it shall finalize the Notice.
 - (c) The final Notice as approved by the Board of Building Code Appeals prepared in accordance with Subsection (3) above shall set a date on which a hearing will be held to ascertain whether there has been compliance with the Notice.
 - (d) Insofar as the Board of Building Code Appeals determines that there is a violation of the Belle Meade Maintenance Code that presents an immediate risk of harm to the City or its residents:
 - i. The Board of Building Code Appeals may direct that the City file suit in either the City Court of the City of Belle Meade or the Courts of Davidson County to enforce the Belle Meade Maintenance Code; and/or
 - ii. The Board of Building Code Appeals may 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 City Manager deems necessary to meet such emergency; and direct that City Manager employ the necessary labor and materials to perform the required work, including demolition, as expeditiously as possible.
 - a. The costs incurred in the performance of emergency work shall be paid by the City of Belle Meade.
 - b. The City Attorney shall institute appropriate action against the owner and/or occupant of the Premises for the recovery of such costs.

13-309. Hearing Before Board of Building Code Appeals. At the hearing scheduled in accordance with 13-308(d)(3) above, the Board of Building Code Appeals may take any of the following actions:

- (1) Upon advice by the City Manager of compliance with the Notice, no further action will be required and any fines that could have been assessed shall be automatically waived;
- (2) Upon advice by either the City Manager or the Owner of a dispute regarding compliance with the Notice, a hearing upon whether there has been compliance with the Notice, and a judgment that:
 - (a) There has been compliance with the Notice, the City shall waive its right to a fine (as might be assessed in accordance with 13-310(a) below) and no additional action is required;
 - (b) There has not been compliance with the Notice and that the matter should be referred to the City for prosecution along with a recommendation of the Board of Building Code Appeals of the sanction that should be sought by the City; and
 - (c) If necessary, that the City institute an action in the Courts of Davidson County to order compliance with the actions required by the Notice; or
 - (d) That additional action is required, in which event an amended Notice shall issue and a new hearing date scheduled for a hearing on the new notice.

13-310. Remedies for Violation.

- (1) Upon determination of the Board of Building Code Appeals as set forth in 13-309(2)(b) above, any person who fails to comply with the Notice, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws.
 - (a) Each day that a violation continues after Notice has been served shall be deemed a separate offense and subject to a fine.
 - (b) The fine for each offense may be in an amount up to Fifty Dollars (\$50.00) a day.
- (2) The imposition of the remedies herein prescribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of the Premises, or to stop an illegal act, conduct, business or utilization of the Premises.
- (3) It shall be unlawful for the owner of any dwelling Premises who has received a Notice to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the Notice have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of the Notice and shall furnish to the City Manager a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such Notice and fully accepting the responsibility without condition for making the corrections or repairs required by such Notice.
- (4) If the Board of Building Code Appeals determines that the owner of the Premises fails to comply with the Notice, the City shall cause a lien to be placed upon the real estate for all costs incurred by the City in connection with the Notice, and the actions required by the Notice.

13-311. Demolition. After notice in accordance with 13-308 above and hearing in accordance with 13-309 above, a structure may be ordered demolished and removed subject to the following terms and conditions:

- (1) Any Premises that is (1) so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and (2) cannot be reasonably repaired shall be ordered demolished and removed by the Board of Building Code Appeals.
- (2) Any structure on which there has been a cessation of normal construction for a period of more than two years shall be ordered demolished and removed by the Board of Building Code Appeals.
- (3) Provided, however, if, after hearing in accordance with 13-309 above, the

Board of Zoning Appeals finds that such structure is capable of being made safe by repairs, then the owner, at the owner's option, may elect to demolish and remove the structure, or to repair and make safe and sanitary the structure, on such terms and conditions as may be imposed by the Board of Building Code Appeals in its sole discretion.

- (4) Any costs incurred by the City of Belle Meade in the enforcement of this provision shall be borne by the owner.
 - (a) If the owner fails to comply with an order issued in accordance with this provision, then the City of Belle Meade may enforce the Order and incur costs that shall be paid by the City of Belle Meade.
 - (b) The City Attorney shall institute appropriate action against the owner and/or occupant of the Premises for the recovery of such costs.

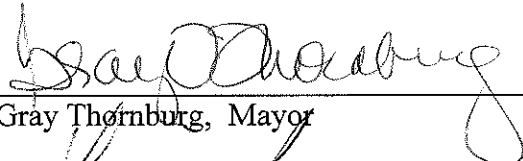
13-312. Limitation of Liability.

- (1) The City Manager, members of the Board of Building Code Appeals, Building Inspector or employee charged with the enforcement of this Code, while acting for the City of Belle Meade, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.
- (2) Any suit instituted against any officer, employee or Board member because of an act performed by that officer, employee or Board member in the lawful discharge of duties and under the provisions of this Code shall be defended by the legal representative of the City of Belle Meade until the final termination of the proceedings.
- (3) The City Manager, employee, officer or Board member, 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, when acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.


Section 2: This Ordinance shall become effective fifteen days after its passage.

Passed on first reading:
September 21, 2011

Passed on Second Reading:
October 19, 2011



Gray Thornburg, Mayor



Linda Berner, City Recorder