



Staff Report

Amendment to the Municipal Ordinance

DATES: Town Council First Reading: May 21, 2024
Town Council Second Reading & Public Hearing: June 18, 2024

TO: Irmo Town Council

FROM: Douglas Polen, Assistant Town Administrator

SUBJECT: Municipal Ordinance Amendment

ACTION REQUESTED: Consideration of a text amendment to Chapters 8 and 14 of the Municipal Ordinance as regards Adopted Codes and Nuisances

Background

Staff is currently making preparations to move code enforcement from the Police to a civilian position and, in so doing, is reviewing all codes in related to nuisances and the enforcement of municipal ordinances. At this time, Staff is proposing major changes to two Chapters of the Code of Ordinance, as follows:

- 1) The addition of Sec. 8-39. International Property Maintenance Code adopted.
 - a) *Chapter 8 – Buildings and Building Regulations, Article II. Technical Codes* is the section of the Ordinance that adopts all codes required by the S.C. Department of Labor, Licensing, and Regulation, including the Electrical Code, Fire Code, Building Code, etc. Staff proposes adopting the International Property Maintenance Code (IPMC) as well, providing a universal, recognized standard for maintenance enforcement.
- 2) Changes to Chapter 14 – Environment, Article II, Nuisances
 - a) *Sec. 14-32. Definition.* Clarification of what constitutes a nuisance while also incorporating the IPMC
 - b) *Sec. 14-35. – Exterior storage of nonoperating vehicles, machinery and equipment.* Addition of a new section governing storage of nonoperating equipment. Allows for vehicle restoration but not permanent storage of nonoperating vehicles.

- c) *Sec. 14-37. – Penalty for failure to abate nuisance.* Clarifies penalty for non-abated nuisances.
- d) *Sec. 14-38. Serving of Notice, et al.* Moves notice, abatement, and right of entry from Police Chief to Administrator’s representative.
- e) *Sec. 14-43. Dwellings unfit for human habitation.* This section takes the state law for residential demolition and incorporates it into the Town’s ordinance.

Staff Findings

Staff recommends **APPROVAL** of this ordinance amendment.

STATE OF SOUTH CAROLINA)
)
TOWN OF IRMO)

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**AN ORDINANCE TO AMEND THE IRMO MUNICIPAL ORDINANCE:
CHAPTER 8 – BUILDINGS AND BUILDING REGULATIONS AND CHAPTER 14 –
ENVIRONMENT**

WHEREAS, the Town of Irmo desires to strengthen its Code of Municipal Ordinance, amending said Code to address noted errors, omissions, vague language, and add appropriate standards; and

WHEREAS, Council wishes to amend the Code of Municipal Ordinance as attached;

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council of the Town of Irmo, South Carolina, in Council duly assembled on this 18th day of June, 2024, that the Town of Irmo Code of Municipal Ordinance is hereby amended.

PASSED AND ADOPTED this 18th day of June, 2024.

William O. Danielson, *Mayor*

ATTEST:

Renee Caviness, *Municipal Clerk*

1st Reading: May 21, 2024

2nd Reading: June 18, 2024

Public Hearing: June 18, 2024

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Changes to the Municipal Code of Ordinance

Add new section following Sec. 8-38. International Energy Conservation Code adopted and renumber all subsequent sections

Sec. 8-39. International Property Maintenance Code

The International Property Maintenance Code, including state adopted modifications as promulgated by the International Code Council and in the version most recently adopted by the state department of labor, licensing and regulation building codes council, shall constitute and become an ordinance of the town, and is hereby adopted, incorporated in, and made a part of this article as fully as though they were set out at length herein, except as amended by this article. The amendments and modifications and succeeding editions of this code or succeeding amendments or modifications to this code, shall become effective within the town on the date specified as the effective date by the state. Prior to such effective date, the existing code standard shall remain in full force and effect. Further, after the effective date of each updated version, all laws, code standards, and versions so updated shall be treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution or appeal existing as of the effective date of the update and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended version. The code adopted by this section and amended by this article shall be known as and may be cited as "the property maintenance code."

Adoption of the International Property Maintenance Code shall also include appendix A.

International Property Maintenance Code addenda:

- 202: The definition of rubbish shall include furniture, appliances, household items, equipment and other personal property which is no longer safely usable for the purpose for which it was manufactured.
- 302.4: Premises and exterior property shall be maintained free from weeds or plant growth in excess of 8 inches.
- 308.2.2: Refrigerators and similar white goods, with or without doors attached, shall not be discarded, abandoned, or stored on the exterior of premises.

Remove Article II. – Nuisances in its entirety and replace with the following and renumber all subsequent sections

ARTICLE II. NUISANCES

Sec. 14-31. Prohibited acts generally.

It shall be unlawful for any person within the town to do any act which offends or endangers the public order or economy of the town or which annoys, injures, endangers, interferes with or renders insecure the health, safety, good order, economy or property rights of the whole community or of any considerable number of persons, or to omit to do any act or perform any duty which the

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common good, public decency or morals, or the public right to life, health and the use of property requires. Any violation of this section shall constitute a nuisance.

(Code 1985, § 8-201; Ord. No. 09-02, 2-17-2009)

Sec. 14-32. Definition.

The town has adopted the International Property Maintenance Code (IPMC), which will be used to identify and abate any nuisances found within the town limits. The information in this article is supplemental to the IPMC and only supersedes that ordinance if explicitly stated. All premises within the town whether vacant, improved or occupied, shall at all times be kept in a sanitary condition, free from unsightliness or nuisance. For purposes of this article, the term "nuisance" is defined to mean any condition or use of premises or building exteriors within the town which is detrimental to the property of others or which causes, or tends to cause, substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the presence of any of the following:

- a. The growth of grass, weeds, or undergrowth other than trees, bushes, cultivated garden, flowers, or other ornamental plants above the height of 8 inches. Addendum to IPMC 302.4.
- b. Dilapidated and/or unsecured structures.
- c. Trash, garbage, litter, rubbish, or septic material.
- d. Abandoned, discarded or unused objects or equipment such as automobiles, automobile parts, other vehicles and vehicle parts, machinery, implements and/or equipment, appliances, furniture, stoves, refrigerators (with or without doors attached), freezers, cans, containers and/or any other personal property which is no longer safely usable for the purpose for which it was manufactured are hereby defined as rubbish, as used in the IPMC. Such objects or equipment located within a secured structure, walled on all sides and with a roof, shall not be considered a nuisance.
- e. No construction materials, brick, block, lumber, wood, plumbing supplies, conduit, pipe, five-gallon containers (empty or otherwise), construction equipment and/or tools may be allowed to accumulate and remain at any location with a residence or any residential zoned property and visible from a public road or from another residential property. All such materials must be stored or contained in a building or in a backyard enclosed by a six-foot privacy fence that is properly installed and maintained in accordance with standard building practices, and shall be effective at blocking such items from view by the public. Any of these violations will deem a property to be unsightly or unsanitary and it will be declared to be a nuisance and punishable by a fine.
- f. Improper parking or storage of vehicles or equipment as outlined in Section 6 of the Zoning Ordinance.
- g. In accordance with the International Property Maintenance Code (IPMC) plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions leaks and defects. Any person receiving an abatement notice hereunder shall have a period of 15 days after receipt of said notice to abate the violation.

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- h. All stagnant water; damp low places; and all garbage, trash, cans, vessels, broken bottles, pieces of metal, china, glass or any other materials that may hold water are hereby deemed unsanitary and declared to be a nuisance punishable by a fine.
- i. Rodents, pests, and other vermin.

(Code 1985, § 8-202; Ord. No. 09-02, 2-17-2009; Ord. No. 16-22, 11-15-2016; Ord. No. 17-08, 3-21-2017; Ord. No. 18-05, 4-17-2018; Ord. No. 18-07, 5-1-2018; Ord. No. 20-22, 10-6-2020; Ord. No. 23-05, 4-18-2023)

State law reference(s)—Authority to adopt ordinance relating to the upkeep of property, S.C. Code 1976, § 5-7-80.

Sec. 14-33. Duty of maintenance of private property.

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the property in the neighborhood in which such premises is located.

Sec. 14-34. Conditions affording food or harborage for rats.

- (a) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage, rubbish or trash in any building, vehicle and their surrounding areas in the town so that the same shall or may afford food or harborage for rats. Any violation of this section shall constitute a nuisance.

(Code 1985, § 8-203; Ord. No. 09-02, 2-17-2009)

Sec. 14-35. - Exterior storage of nonoperating vehicles, machinery and equipment.

- a. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, wrecked, discarded, abandoned, or unused vehicles, machinery or equipment to remain on such property longer than ten days; except that this section shall not apply to any vehicle, machinery or equipment under the following conditions:
 - 1. Any vehicle, machinery, or equipment in an enclosed building provided, further, that the storage of such vehicle, machinery and equipment is permissible under the zoning ordinance of the town.
 - 2. Any vehicle, machinery, or equipment on the premises of a business enterprise operated in a lawful place other than in a residential district and operated in a lawful manner when the keeping or maintenance of such vehicle, equipment or machinery is necessary to the operation of such business enterprise.
 - 3. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town or other public agency or entity.
 - 4. Any vehicle with an active restoration permit.
- b. *Restoration.* A person who seeks to restore a vehicle on their premises shall apply for a vehicle restoration permit. The location of the vehicle must be the same as the applicant's place of residence. Town building and codes enforcement may issue one written permit to an

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owner allowing the unlicensed or unregistered vehicle to be on the owner's premises for the purpose of repair and upgrade for a period not to exceed 12 consecutive months, with a one-year extension available upon request and approval (see subsection (e) of this section). Only one vehicle restoration permit is allowed at a time per household or dwelling site.

- c. *Storage.* Any unlicensed or unregistered vehicle being repaired or upgraded under the vehicle restoration permit authorization must be stored in a garage or must be parked on a concrete or asphaltic surface, or an approved rock/gravel surface, and covered with an approved fitted cover designed for that vehicle type. The repair or upgrade of the vehicle must be for personal hobby or recreational purposes, and not be for business purposes.
- d. *Application.* Restoration permits shall be obtained from the town after completion of an application and payment of a fee as determined by town council.
- e. *Extension.* Permittee may request and the town may authorize one 12-month extension in order to complete the repair, provided permittee is in compliance with the terms of the permit, the property maintenance provisions in this ordinance, and substantial work has been performed on the vehicle in the opinion of the town. At the expiration of the permit or its extension period, if the vehicle is not fully restored to working condition, the owner must either store the vehicle in a fully enclosed building or remove the vehicle from the property.

Sec. 14-36. - Storm sewers.

No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any portion of the storm sewer system to be blocked, diverted, or altered so as to not allow for the proper drainage of storm water. Likewise, no person shall obstruct or cause to be obstructed access to the storm sewer system by those agencies, government or otherwise, charged with the maintenance and upkeep of such systems.

Sec. 14-37. - Penalty for failure to abate nuisance.

If the owners, tenants, lessees and/or occupants of any lot within the corporate limits of the town upon which a nuisance has been determined to exist fail to abate such nuisance, each of them, upon conviction thereof, shall be punished in accordance with section 1-8.

Sec. 14-38. Serving of Notice.

The Town Administrator, or his duly authorized agent (hereinafter “code inspector”), upon identification of the existence of any condition declared by this article to be a nuisance, shall serve written notice upon the person responsible for such condition to clean up said premises and abate such nuisance within ten days. It shall be sufficient notification to hand deliver the written notice or a copy of the notice to the property owner or, if the owner does not occupy the property, hand deliver the notice to the occupant or post a copy on the premises upon which the nuisance exists AND deposit a copy of such notice in the United States mail properly stamped and directed to the property owner at his last known address.

In any case where personal service or mail delivery to a last known address cannot reasonably be made, it shall also be sufficient service if written notice is affixed to the front door of any dwelling unit on the property. If the property has no dwelling unit, and if such personal service cannot reasonably be had, service of the notice shall be sufficient if the notice is affixed to the property in a reasonably visible fashion.

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Sec. 14-39. Abatement.

Upon failure of the person to whom the notice is directed to remove and abate the nuisance, as provided for in this section, within ten days after notice, the employees or agents of the town may enter upon the premises of the offending person and cause the nuisance to be removed therefrom, and such person shall be liable for the costs of removal in addition to being subject to prosecution for violating this article. The Code Inspector may choose to grant an extension beyond the original ten-day period if it is determined that the offender is acting in good faith and working with the Town to correct the violation in a timely manner.

Any cost of abatement shall constitute a lien on the real property. The town administrator is hereby authorized to file a statement of property lien with the register of deeds for the county in which the property subject to the lien is located. The lien amount shall draw interest at the standard legal rate prevailing at the time the lien is filed.

(Code 1985, § 8-204; Ord. No. 09-02, 2-17-2009)

Sec. 14-40. Right of entry to abate.

The Code Inspector, together with any other necessary town staff or designated agents shall have the power to enter upon any premises in the town upon which there is suspected to be a nuisance, as provided for in this article and consistent with legally recognized privacy rights, for the purpose of examining and abating the nuisance. If a code enforcement officer has reasonable cause to believe that a condition exists that poses an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, the code enforcement officer may enter the affected property or location without prior notification to the owner or occupant, subject to privacy and personal property rights and any other applicable provisions of law, including the state and federal constitutions. In all other cases, a code enforcement officer shall request that the owner and/or occupant, if the same can be located after reasonable effort, consent to allow the code enforcement officer to enter upon the affected property for the purpose of examining and abating the nuisance. If an owner or occupant refuses entry after a request for entry has been properly made or the owner or occupant cannot be located after reasonable effort, the code inspector shall seek an appropriate warrant from a court of competent jurisdiction.

(Code 1985, § 8-205; Ord. No. 09-02, 2-17-2009; Ord. No. 16-13, 8-16-2016)

Sec. 14-41. Enforcement of article.

- (a) *Residential properties.* Any residential housing or commercial building that is in such disrepair or damage to the extent to be uninhabitable is deemed to be dilapidated and shall constitute a violation of town code. Any residential structure that is not uninhabitable shall nevertheless be deemed dilapidated if it has disrepair or damage such as, but not limited to:
- (1) Garage doors that are rotten, not properly attached or incapable of opening/closing as designed;
 - (2) Exterior siding, fascia boards, or any other lumber, molding, not securely attached (pulling away from main structure);
 - (3) Broken windows or missing exterior doors;
 - (4) Roofs that have been damaged, with hole(s), or in need of repair shall be considered a violation and abatement issued (providing a ten-day period to submit sufficient

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documentation of abatement efforts to the town administrator). The town administrator will grant such time for abatement as the town administrator determines is appropriate upon the providing of sufficient supporting documentation of abatement efforts; and

- (5) Gutters and window shutters that are not securely attached and/or hanging from roofline or structure shall be considered a violation and abatement issued (providing a ten-day period to correct) these deficiencies can be corrected by proper attachment and/or removal from the structure.

Any of these violations not corrected during the abatement period will result in the owner being issued a citation. This article encompasses all residential and commercial structures within the municipal boundaries. The town will maintain and make available to an affected citizen hereunder a list of charitable organizations that may be willing to volunteer to assist citizens with abatement issues. It is the responsibility of an affected citizen to make a request for this list to the town administrator. Inclusion on this list will [be] voluntary and the organizations on the list shall not be obligated to assist any person by virtue of their inclusion on the list.

- (b) *Commercial properties.* Any commercial structure shall be deemed to be dilapidated and shall constitute a violation of town code if it has disrepair or damage such as, but not limited to:
 - (1) Any doors (public access or warehousing) that are rotten, not properly attached or incapable of opening and/or closing as designed;
 - (2) Exterior siding, fascia boards, eaves, or any other lumber, molding not securely attached (pulling away from main structure);
 - (3) Brick work, block walls, sheet metal siding that are crumbling and/or separating from the structure/foundation;
 - (4) Broken or missing windows, storm doors, skylights or exterior light fixtures. Broken, cracked or chipped windows may be boarded-up awaiting repairs for a maximum of 30 days after which the glass must be replaced;
 - (5) Damaged or missing steps and/or porch railings;
 - (6) Roofs that have been damaged, with hole(s), or in need of repair shall be considered a violation and abatement issued (providing a ten-day period to submit sufficient documentation of abatement efforts to the town administrator). The town administrator will grant such time for abatement as the town administrator determines is appropriate upon the providing of sufficient supporting documentation of abatement efforts;
 - (7) Off-street parking areas that are damaged or need of repairs (potholes, cracks, overgrown vegetation, etc.);
 - (8) Parking area lights that are damaged, broken or missing bulbs;
 - (9) Exterior signage that is damaged or vandalized.

Any of these violations not corrected during the abatement period will result in the owner being issued a citation.

(Ord. No. 16-25, 2-7-2017; Ord. No. 17-07, 3-21-207; Ord. No. 17-09, 3-21-2017; Ord. No. 20-02 , 2-18-2020)

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Sec. 14-43. Dwellings unfit for human habitation.

This section is derived from South Carolina State Law, Title 31 – Housing and Redevelopment, Chapter 15 – Dwellings Unfit for Human Habitation

- (a) Whenever the code enforcement officer finds that there exists in town dwellings which are unfit for human habitation due to (a) dilapidation, (b) defects increasing the hazards of fire, accidents or other calamities, (c) lack of ventilation, light or sanitary facilities or (d) other conditions rendering such dwellings unsafe or insanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the town, the town may exercise its police powers to repair, close or demolish any such dwelling in the manner herein provided.
- (b) Whenever the code enforcement officer determines a dwelling to be unfit for human habitation, the code enforcement officer shall issue and cause to be served upon the owner of and all parties in interest in such dwelling a complaint stating the charges and containing a notice that a hearing will be held before the Town Administrator or his designated agent at Town Hall not less than ten (10) days nor more than thirty (30) days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Town Administrator. Pursuant to Section 31-15-60 of the S.C. Code, this notification shall be served to the owner either personally or via registered mail.
- (c) If, after such notice and hearing, the Town Administrator determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order
 - 1) if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (less than 50% of the assessed value of the dwelling), the owner is required, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation or
 - 2) if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (50% or greater of the assessed value of the dwelling) requiring the owner, within the time specified in the order, to remove or demolish such dwelling;
- (d) Should the owner fail to comply with an order to repair, alter or improve or to vacate and close the dwelling, the town administrator or his agent may cause such dwelling to be repaired, altered or improved or to be vacated and closed; furthermore the code enforcement officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful";
- (e) Should the owner fail to comply with an order to remove or demolish the dwelling, the town administrator may cause such dwelling to be removed or demolished; and
- (f) The amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the town administrator shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as municipal taxes.
- (g) Due to the severity of an order to remove or demolish a dwelling, the code enforcement officer shall make every attempt to contact the property owner via mail, email, telephone, social

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media, or any other methods which may be effective. As stated in Section 31-15-60 of the S.C. Code, “if the whereabouts of such persons is unknown and cannot be ascertained by the [code enforcement] officer in the exercise of reasonable diligence and the [code enforcement] officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing it once each week for two consecutive weeks in a newspaper printed and published in the municipality or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the county in which the dwelling is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.” If the property owner cannot be reached, the town administrator retains the authority to order the removal or demolition of the dwelling.

- (h) Any person affected by an order issued by a code enforcement officer may within sixty days after the posting and service of the order petition the circuit court for an injunction restraining the code enforcement officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the code enforcement officer pending the final disposition of the cause. Hearings shall be had by the court on such petitions within twenty days or as soon thereafter as possible and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings the findings of the code enforcement officer as to facts, if supported by evidence, shall be conclusive. Costs shall be at the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the code enforcement officer shall be entitled to recover any damages for action taken pursuant to any order of the code enforcement officer or because of compliance by such person with any order of the code enforcement officer.
- (i) As per section 31-15-80 of the S.C. State Code, code enforcement officers have the following powers, in addition to any others so granted:
 - 1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;
 - 2) To administer oaths and affirmations, examine witnesses and receive evidence;
 - 3) To enter upon premises for the purpose of making examinations, provided such entries be made in such manner as to cause the least possible inconvenience to the persons in possession;
 - 4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and
 - 5) To delegate any of his functions and powers under the ordinances to such officers and agents as he may designate.
- (j) If a dwelling is removed or demolished by a code enforcement officer he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the circuit court by the code enforcement officer, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such cou
- (k) As per section 31-15-100 of the S.C. State Code, Town Council shall adopt an ordinance as soon as possible so as to prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of

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the dwellings in town for the purpose of determining the fitness of such dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this article. The Town may make such appropriations from its revenues as it may deem necessary for this purpose and may accept and apply grants or donations to assist it in carrying out the provisions of such ordinances.

Secs. 14-44—14-70. Reserved.