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FOREWORD

**APHA - CDC**  
**RECOMMENDED HOUSING MAINTENANCE**  
**AND**  
**OCCUPANCY ORDINANCE**

1975 REVISION  
Reprinted 1976

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**FOREWORD**

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The Center for Disease Control of the United States Public Health Service is pleased to have shared with the American Public Health Association the task of updating the "APHA/CDC Recommended Housing Maintenance and Occupancy Ordinance." We feel that the present revision fulfills the need for periodic review and clarification of the model ordinance. It is hoped, thereby, that this document will continue to be useful to State and local housing and health authorities in promoting high standards for health protection.

David J. Sencer, M.D.  
Assistant Surgeon General,  
Director

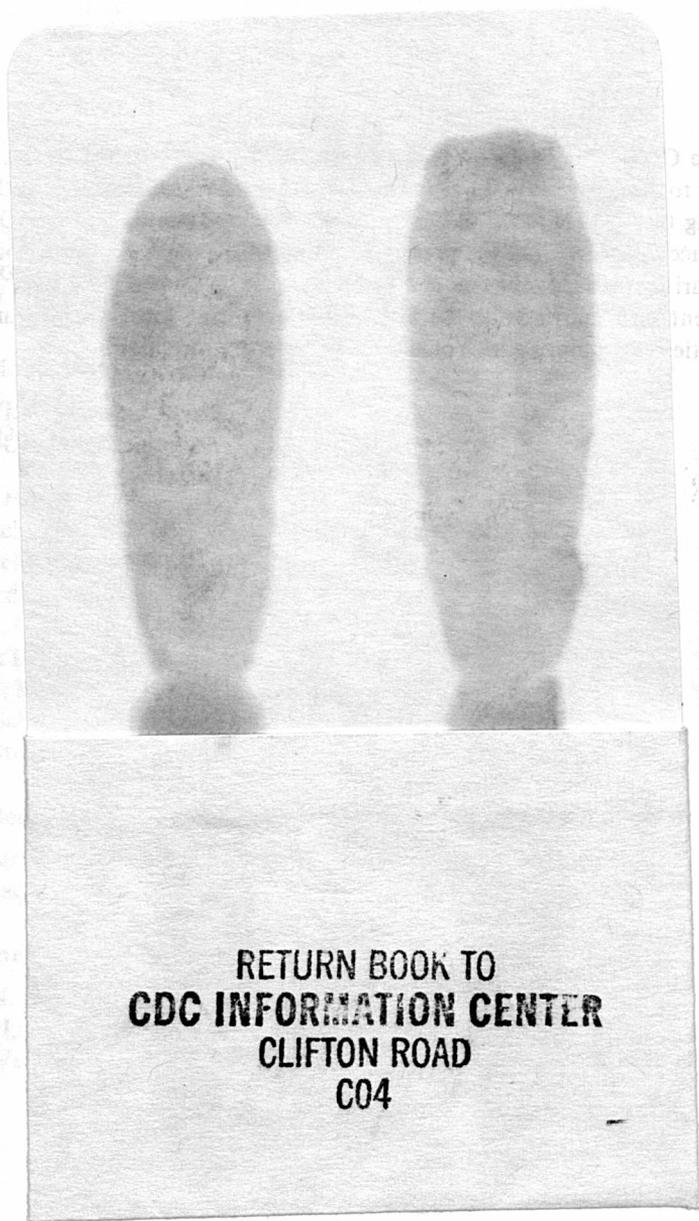
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## INTRODUCTION

The Housing Act of 1949 gave new impetus to existing local, state, and federal housing programs directed toward the elimination of poor housing and the production of sound and decent housing. In passing this legislation, Congress defined a new national objective by declaring “that the general welfare and security of the Nation and the health and living standards of its people . . . require a decent home and a suitable living environment for every American family.”<sup>1</sup> In response to this mandate, there developed an awareness that the quality of housing and residential environment has an enormous influence upon the physical and mental health and social well-being of each individual and, in turn, upon the economic, political, and social conditions of every community. Consequently, public agencies, units of government, professional organizations, and others sought ways to insure that the quality of housing and the residential environment did not depreciate or deteriorate to levels below which the health, safety, and welfare of the occupants and those residing in the vicinity would be endangered. It soon became apparent that comprehensive legislation regulating supplied facilities, maintenance, and occupancy of dwellings and dwelling units was needed. The legal documents that evolved are more commonly called “housing codes.”

Legislation establishing minimum conditions and facilities and maximum occupancy of housing has considerable history. However, most of the early laws regulating housing quality were not applicable to all classes of dwellings, but were restricted to tenement houses and similar residential structures. Tenement house legislation dates back to 1867 when the State of New York passed its first Tenement House Act.

Probably the first housing law applicable to all types of dwellings was the one enacted by the City of Columbus, Ohio, in 1911. Veiller, in his book, *A Model Housing Law*, published in 1914, proposed legislation that would establish minimum legal requirements for all types of housing. Only a few cities and states adopted such legislation and most of those laws were virtually repealed by subsequent amendments.

Housing codes were and are distinct and separate from building and other construction codes. However, these differences are not appreciated and understood by many who use “housing” and “building” synonymously. These persons fail to recognize that the principal purpose of a building code is to require buildings to be constructed in such a way as to sustain safely the loads

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<sup>1</sup>Public Law 171, 81st Congress, Chapter 338 – 1st Session. Housing Act of 1949.

expected from the type of occupancy and to be reasonably safe for such occupancy against fire and similar hazards; whereas the primary intent of a housing code is to establish minimum standards essential to good health and which make dwellings safe, sanitary, and fit for human habitation by governing the condition and maintenance, the supplied utilities and facilities, and the occupancy.

Housing codes are different from building and other construction codes in that the latter are enforced primarily through a system of permits which are granted after plans and specifications have been submitted and evaluated and which are subject to inspection. The government agency has full control of the situation through its power to issue and withhold the required permits. Housing codes are enforced usually by inspections of the residential units on a systematic or complaint basis.

Another difference between housing codes and building codes may be identified in the following way: "Building and construction codes regulate primarily how you shall build; housing codes regulate how you shall live." Building and construction codes are basically technical standards dealing with inanimate objects. On the other hand, because housing codes regulate how people may live, there are important social, economic, cultural, and psychological aspects which pertain not only to the basic standards, but also to the administration and application of the provisions of the code.

In 1953 Barnhart, in collaboration with the American Society of Building Officials, prepared a Housing Research Report entitled "Local Development and Enforcement of Housing Codes."<sup>2</sup> In this document he enumerated four major elements present in most urban areas that should be regulated to attain and maintain a given minimum level of housing quality. They are:

1. Structures and dwelling units which lack basic sanitary and other equipment and facilities or which may be in various states of disrepair.
2. Conditions in the environments surrounding existing dwelling structures, such as utilities, streets, transportation systems, etc., which constitute or contribute to poor housing quality.
3. A general tendency of dwelling structures and their provided facilities and equipment and of environments to deteriorate over a period of time.
4. A small percentage of newly created dwelling units that are being built without one or more of the items considered necessary for minimum housing.

A housing code is a legislative device, that, when vigorously, equitably, and judiciously enforced, can regulate a major portion of these elements.

To assist municipalities with the development of legislation necessary to regulate the quality of housing, the Committee on the Hygiene of Housing, American Public Health Association, prepared, and in 1952, published, *A Proposed Housing Ordinance* to provide a general guide or prototype on which

<sup>2</sup>G.R. Barnhart, 1953, Local development and enforcement of housing codes. Housing and Home Finance Agency, Washington, D.C.

such legislation may be based. This document has served as the basis for countless housing codes enacted in the United States since that time. Some municipalities enacted it without change; others made revisions, omitting some portions, modifying others, and sometimes adding new provisions. The excellence of this basic document, prepared under the dual leadership of the late Professor C.E.A. Winslow and Dr. E.R. Krumbiegel, is attested to by the fact that it is still used in its original form as a fundamental reference for housing legislation.

The first revision of *A Proposed Housing Ordinance* was drafted in July 1967 by the Sub-committee on Housing Regulations and Standards, Program Area Committee on Housing and Health,\* American Public Health Association, in collaboration with the Office of Urban Environmental Health Planning, U.S. Public Health Service. The new version was entitled *The A.P.H.A.-P.H.S. Recommended Housing Maintenance and Occupancy Ordinance* and was in circulation for approximately one year as a "first action" document. This version of the housing code was distributed widely in the United States to local, state and federal agencies. Comments were elicited and recommendations for further revision were welcomed. A revised version was released jointly by the American Public Health Association and the U.S. Public Health Service in 1969. The 1969 document contained several changes from the 1967 "first action" copy, such revisions being based upon comments from the field.

In the interim between 1969 and 1971 additional suggestions for revision of the recommended housing ordinance were received. In 1971 another revision was prepared and released under the joint sponsorship of the American Public Health Association and the U.S. Public Health Service.

As housing conditions changed in the U.S., and as governmental agencies acquired experience in housing inspection and housing code enforcement, additional revision of the recommended housing ordinance became apparent. In 1973, the Center for Disease Control, U.S. Department of Health, Education, and Welfare assumed the responsibility for programs involving housing and health. In 1974, representatives from the Center for Disease Control cooperated with the APHA's Committee on Housing and Health in reviewing the contents of the 1971 version of the *APHA-PHS Recommended Housing Maintenance and Occupancy Ordinance*. As a result of this joint effort, the 1975 version of the recommended housing ordinance has been prepared. This latest version has been given the title of *APHA-CDC Recommended Housing Maintenance and Occupancy Ordinance*.

In preparing the several revisions, the Committee on Housing and Health has subscribed to the philosophy of Dr. E.R. Krumbiegel who stated, "In my opinion a housing code should be one that establishes reasonably high standards for housing, but at the same time does not make practical attainment of its standards impossible."<sup>3</sup> Many of the modifications and additions found in the

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\*Note: The Program Area Committee on Housing and Health was the successor to the Committee on the Hygiene of Housing.

<sup>3</sup>E.R. Krumbiegel, 1951. A health department code for occupied housing. In *Housing and Health*. Milbank Memorial Fund, New York,

present version of the *APHA-CDC Recommended Housing Maintenance and Occupancy Ordinance* are, in reality, more stringent requirements for housing than those in the previous editions. However, they are not as restrictive as renewal standards and should not be confused with such standards. The provisions of this recommended legislation are intended to establish safeguards for the health, safety, and well-being of the occupants of the dwelling and persons residing in the vicinity of the dwelling. No attempt has been made to include requirements that are solely for the benefit of upgrading the economic value or improving the aesthetic quality of housing. These advantages may be attained coincidentally with the raising of the quality of dwelling as pertains to health, safety, and decency.

It is appropriate to paraphrase a fundamental statement made by Professor Winslow in the Foreword to *A Proposed Housing Ordinance*. He states it is important to note that there are two other things the proposed legislation does not intend to do. As with the original document, and subsequent versions, the 1975 revision does not suggest any rigid uniformity to be imposed by communities contemplating adoption of housing quality controls. The requirements presented in this recommended ordinance represent the best thinking of health and housing experts as to what constitutes reasonable minimum standards that are attainable, enforceable, and practicable. Some communities, because of prevailing conditions, may wish to omit, modify, or add sections. Municipalities desiring housing of better quality than that provided by the suggested minimum requirements are encouraged to enact more stringent standards. This recommended housing legislation can, and should, be modified to suit local conditions as needed to meet local program objectives.

The second point concerns the agency and the official who is empowered to enforce these legal requirements. The American Public Health Association and the Center for Disease Control have advocated the designation of the public health agency and the health officer as the agency and the official who should be given the legal authority and responsibility for enforcement. If, however, there are cogent reasons to vest the authority and responsibility in another agency and official, such action is encouraged, *provided* the agency and the official have the ability and interest to accept and fulfill the responsibility, to equitably enforce, judiciously, and vigorously all provisions of the legislation and to do so better, more efficiently, and more effectively than the public health agency and the health officer.

The primary purpose of housing quality legislation such as the *APHA-CDC Recommended Housing Maintenance and Occupancy Ordinance* is to protect and promote the public health. Therefore, it is felt that the legal authority and responsibility to enforce the provisions of the recommended ordinance should be vested in the agency and with the official whose primary responsibilities are similar in scope and objective. In defining the roles of the public health agency and the health officer, there is no intent to infringe on the powers and duties of other agencies and officials. Some of the housing quality standards found in this ordinance concern some areas of jurisdiction sometimes vested with the building official and the fire safety official. It is intended that such areas of dual or

multiple responsibilities be handled with the cooperation of all concerned. An effective, efficient program of enforcement of housing quality standards should foster a coordinated and integrated program of housing inspection and control with many agencies and officials participating.

Persons familiar with *A Proposed Housing Ordinance* will find many changes in the legal and administrative aspects of this revision. Some of these changes were predicted by court decisions of cases which have been brought to trial. A significant change concerns the right of entry of the inspecting officer. The decisions of the U.S. Supreme Court in the cases of *Camara vs. Municipal Court of the City and County of San Francisco*<sup>4</sup> and *See vs. City of Seattle*<sup>5</sup> have dictated the inclusion of a requirement to be fulfilled before inspection is made.

Another change in the administrative procedures is the provision requiring the establishment of a Housing Code Appeals Board and the specific requirements concerning the functions, duties and powers of the Board. The enforcement procedures of the ordinance have been redefined in an attempt to obtain greater efficiency.

There have been changes in some of the substantive areas of the ordinance. Some of these revisions have been made to help cope with special problem areas identified with housing and health. Examples of some of the changes are as follows: simplification and clarification of the standards pertaining to rat-proofing; specific prohibition against the use of lead-based paint; clarification of the standards pertaining to unit or space heaters; specific requirements concerning bulk refuse containers when used in multiple housing units; and clarification of the occupancy standards.

The format of the *APHA-CDC Recommended Housing Maintenance and Occupancy Ordinance* has been changed from the style of *A Proposed Housing Ordinance* to include legal and explanatory notes to aid in the interpretation and understanding of some of the provisions. These notes are not intended to be all-inclusive but to provide guidance that may be helpful.

The *APHA-CDC Recommended Housing Maintenance and Occupancy Ordinance* is the product of the dedicated efforts of many persons, in addition to members of the Committee on Housing and Health. Significant suggestions were received from a number of individuals. Obviously, many hours of deliberation went into the proposals submitted to the Committee. Suggestions for revision came from persons affiliated with agencies and organizations such as local, state, and federal government, professional organizations, trade associations, and technical groups, and from other interested persons. No single point of view is presented. Most of the provisions are based on consensus. To the numerous persons who participated in the development of the recommended ordinance, a debt of gratitude is owed.

Special acknowledgement is made to the Director of the Center for Disease Control, U.S. Department of Health, Education, and Welfare, and to his staff, particularly personnel of the Environmental Health Services Division. Their

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<sup>4</sup>*Camara v. Municipal Court of San Francisco*, 387, U.S. 523 (1967).

<sup>5</sup>*See v. City of Seattle*, 387 U.S. 541 (1967).

cooperation and participation in the task of developing this revision was of great value.

January 2, 1975

Eric W. Mood, MPH, LL.D.  
Chairman, Committee on Housing and Health  
Section on the Environment  
American Public Health Association

SECTION 1  
GENERAL PROVISIONS

The following general provisions shall apply in the interpretation and enforcement of this ordinance:

**1.01 Legislative Finding.** It is hereby found that there exist and may in the future exist **A PROPOSED HOUSING MAINTENANCE AND OCCUPANCY ORDINANCE** dwelling units, rooming units, or parts thereof which by reason of their structure, equipment, sanitation, **(Title and adopting language should conform to requirements of** affect or are likely to affect adversely the public health (including the physical, mental, and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential **public health, safety, and general welfare, it is further found that the establishment and e** protect and promote public health, safety, and general welfare, it is further found that the establishment and e should conform to requirements of

**1.02 Purposes.** It is hereby declared **local law.)** purpose of this ordinance is to protect, preserve, and promote the physical and mental health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate privately and **Be it ordained by the (name of Legislative Body) of the (name of Corporate Unit), as follows:** to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed. It is hereby further declared that the purpose of this ordinance is to insure that the quality of housing is adequate for protection of **public health, safety and general welfare, including: establishment of minimum standards for basic equipment and facilities for light, ventilation, and thermal conditions, for safety from fire and accidents, for the use and location and amount of space for human occupancy, and for an adequate level of maintenance; determination of the responsibilities of owners, operators and occupants of dwellings; and provision for the administration and enforcement thereof.**

**1.03 Scope.** The provisions of this ordinance shall apply uniformly to the construction, maintenance, use and occupancy of all residential buildings and structures, where applicable, and shall apply uniformly to the alteration, repair, equipment, use, occupancy and maintenance of all existing residential buildings and structures, within the jurisdiction of (Name of Corporate Unit) irrespective of when or under what code or codes such buildings or structures were originally constructed or rehabilitated.

**1.04 Title.** This ordinance **known and may be cited as the Housing Maintenance and Occupancy Ordinance of the (Name of Corporate Unit), hereinafter referred to as "this ordin**



## SECTION I

### GENERAL PROVISIONS

The following general provisions shall apply in the interpretation and enforcement of this ordinance:

**1.01 Legislative Finding.** It is hereby found that there exist and may in the future exist, within the (name of Corporate Unit) premises, dwellings, dwelling units, rooming units, or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy affect or are likely to affect adversely the public health (including the physical, mental, and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety, and general welfare, it is further found that the establishment and enforcement of minimum housing standards are required.

**1.02 Purposes.** It is hereby declared that the purpose of this ordinance is to protect, preserve, and promote the physical and mental health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed. It is hereby further declared that the purpose of this ordinance is to insure that the quality of housing is adequate for protection of public health, safety and general welfare, including: establishment of minimum standards for basic equipment and facilities for light, ventilation, and thermal conditions, for safety from fire and accidents, for the use and location and amount of space for human occupancy, and for an adequate level of maintenance; determination of the responsibilities of owners, operators and occupants of dwellings; and provision for the administration and enforcement thereof.

**1.03 Scope.** The provisions of this ordinance shall apply uniformly to the construction, maintenance, use and occupancy of all residential buildings and structures, where applicable, and shall apply uniformly to the alteration, repair, equipment, use, occupancy and maintenance of all existing residential buildings and structures, within the jurisdiction of (Name of Corporate Unit) irrespective of when or under what code or codes such buildings or structures were originally constructed or rehabilitated.

**1.04 Title.** This ordinance shall be known and may be cited as the Housing Maintenance and Occupancy Code of the (Name of Corporate Unit), hereinafter referred to as "this ordinance."

## SECTION II

### DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance:

**2.01 Accessory Building or Structure** shall mean a detached building or structure in a secondary or subordinate capacity from the main or principal building or structure on the same premises.

**2.02 Appropriate Authority** shall mean that person within the governmental structure of the corporate unit who is charged with the administration of the appropriate code.

**2.03 Approved** shall mean approved by the local or state authority having such administrative authority.

**2.04 Ashes** shall mean the residue from the burning of combustible materials.

**2.05 Attic** shall mean any story situated wholly or partly within the roof, and so designed, arranged or built as to be used for business, storage, or habitation.

**2.06 Basement** shall mean the lowest story of a building, below the main floor and wholly or partially lower than the surface of the ground.

**2.07 Building** shall mean a fixed construction with walls, foundation and roof, such as a house, factory, garage, etc.

**2.08 Bulk Container** shall mean any metal garbage, rubbish, and/or refuse container having a capacity of two (2) cubic yards or greater and which is equipped with fittings for hydraulic and/or mechanical emptying, unloading and/or removal.

**2.09 Cellar** shall mean a room or group of rooms totally below the ground level and usually under a building.

**2.10 Central Heating System** shall mean a single system supplying heat to one (1) or more dwelling unit(s) or more than one (1) rooming unit.

**2.11 Chimney** shall mean a vertical masonry shaft of reinforced concrete, or other approved noncombustible, heat-resisting material enclosing one (1) or more flues, for the purpose of removing products of combustion from solid, liquid or gaseous fuel.

**2.12 Dilapidated** shall mean no longer adequate for the purpose or use for which it was originally intended.

**2.13 Dormitory** shall mean a building or a group of rooms in a building used for institutional living and sleeping purposes by four (4) or more persons.

**2.14 Dwelling** shall mean any enclosed space wholly or partly used or intended to be used for living, sleeping, cooking and eating; provided that temporary housing as hereinafter defined shall not be classified as a dwelling. Industrialized housing and modular construction which conform to nationally accepted industry standards and used or intended for use for living, sleeping, cooking and eating purposes shall be classified as dwellings.

**2.15 Dwelling Unit** shall mean a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking and eating purposes.

**2.16 Egress** shall mean an arrangement of exit facilities to assure a safe means of exit from buildings.

**2.17 Extermination** shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the local or state authority having such administrative authority.

**2.18 Fair Market Value** shall mean a price at which both buyers and sellers are willing to do business.

**2.19 Family** shall mean one or more individuals living together and sharing common living, sleeping, cooking and eating facilities. (See also Household)

**2.20 Flush Water Closet** shall mean a toilet bowl which is flushed with water which has been supplied under pressure and equipped with a water sealed trap above the floor level.

**2.21 Garbage** shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving and nonconsumption of food.

**2.22 Grade** shall mean the finished ground level adjacent to a required window.

**2.23 Guest** shall mean an individual who shares a dwelling unit in a non-permanent status for not more than thirty (30) days.

**2.24 Habitable Room** shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than fifty (50) square feet of floor space,

foyers, or communicating corridors, stairways, closets, storage spaces, and workshops, hobby and recreation areas.

**2.25 Health Officer** shall mean the legally designated health authority of the (name of Corporate Unit) or his authorized representative. (If the legally designated health authority has a title other than “Health Officer” the title of this authority should be substituted for “Health Officer” in this section and all other sections of this ordinance.)

**2.26 Heated Water** shall mean water heated to a temperature of not less than 120° F at the outlet.

**2.27 Heating Device** shall mean all furnaces, unit heaters, domestic incinerators, cooking and heating stoves and ranges, and other similar devices.

**2.28 Household** shall mean one or more individuals living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities. (See also Family)

**2.29 Infestation** shall mean the presence within or around a dwelling of any insects, rodents, or other pests.

**2.30 Kitchen** shall mean any room used for the storage of foods, preparation of foods and containing the following equipment: sink and/or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food, cabinets and/or shelves for storage of equipment and utensils, and counter or table for food preparation.

**2.31 Kitchenette** shall mean a small kitchen or an alcove containing cooking facilities.

**2.32 Lead-based Paint** shall mean any paint containing more lead than the level established by the U.S. Consumer Product Safety Commission as being the “safe” level of lead in residential paint and paint products.

**2.33 Meaning of Certain Words** Whenever the words “dwelling,” “dwelling unit,” “rooming units,” “premises,” “structure” are used in the Ordinance they shall be construed as though they were followed by the words “or any part thereof.” Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine and the feminine the masculine.

**2.34 Multiple Dwelling** shall mean any dwelling containing more than two (2) dwelling units.

**2.35 Occupant** shall mean any individual, over one (1) year of age, living, sleeping, cooking, or eating in or having possession of a dwelling unit or a

rooming unit; except that in dwelling units a guest shall not be considered an occupant.

**2.36 Operator** shall mean any person who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.

**2.37 Ordinary Summer Conditions** shall mean a temperature 10°F below the highest recorded temperature in the locality for the prior ten (10) year period.

**2.38 Ordinary Winter Conditions** shall mean a temperature 15°F above the lowest recorded temperature in the locality for prior ten (10) year period.

**2.39 Owner** shall mean any person who, alone or jointly or severally with others:

- (a) shall have legal title to any premise, dwelling or dwelling unit, with or without accompanying actual possession thereof, or
- (b) shall have charge, care, or control or any premise, dwelling or dwelling unit, as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance and of rules and regulations adopted pursuant thereto, the same extent as if he were the owner.

**2.40 Permissible Occupancy** shall mean the maximum number of individuals permitted to reside in a dwelling unit, rooming unit or dormitory.

**2.41 Person** shall mean and include any individual, firm, corporation, association, partnership, cooperative or governmental agency.

**2.42 Plumbing** shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer, or gas lines.

**2.43 Premises** shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure, and includes any such building, accessory structure or other structure thereon.

**2.44 Privacy** shall mean the existence of conditions which will permit an individual or individuals to carry out an activity commensed without interruption or interference, either by sight or sound by unwanted individuals.

**2.45 Properly Connected** shall mean connected in accordance with all applicable code and ordinances of this (Name of Corporate Unit) as from time to time enforced; provided, however, that the application of this definition shall not require the alteration or replacement of any connection in good working order and not constituting a hazard to life or health.

**2.46 Rat Harborage** shall mean any conditions or place where rats can live, nest, or seek shelter.

**2.47 Ratproofing** shall mean a form of construction which will prevent the ingress or egress of rats to or from a given space or building, or from gaining access to food, water, or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rats by climbing, burrowing or other methods, by the use of materials impervious to rat gnawing and other methods approved by the (Appropriate Authority).

**2.48 Refuse** shall mean all putrescible and nonputrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.

**2.49 Refuse Container** shall mean a watertight container that is constructed of metal, or other durable material impervious to rodents, that is capable of being serviced without creating insanitary conditions, or such other containers as have been approved by the appropriate authority. Openings into the container such as covers and doors shall be tight fitting.

**2.50 Rooming House** shall mean any dwelling other than a hotel or motel or that part of any dwelling, containing one (1) or more rooming units, and/or one (1) or more dormitory rooms and in which persons either individually or as families are housed with or without meals being provided.

**2.51 Rooming Unit** shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

**2.52 Rubbish** shall mean nonputrescible solid wastes (excluding ashes) consisting of either:

- (a) combustible wastes such as paper, cardboard, plastic containers, yard clippings, and wood; or
- (b) noncombustible wastes such as tin cans, glass and crockery.

**2.53 Safety** shall mean the condition of being reasonably free from danger and hazards which may cause accidents or disease.

**2.54 Space Heater** shall mean a self-contained, heating appliance of either the

convection type or the radiant type and intended primarily to heat only a limited space or area such as one room or two adjoining rooms.

**2.55 Supplied** shall mean paid for, furnished by, provided by, or under the control of the owner, operator, or agent.

**2.56 Temporary Housing** shall mean any tent, trailer, mobile home or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30) consecutive days.

**2.57 Toxic Substance** shall mean any chemical product applied on the surface of or incorporated into any structural or decorative material which constitutes a potential hazard to human health at acute or chronic exposure levels.

**2.58 Variance** shall mean a difference between that which is required or specified and that which is permitted.

**2.59 Undefined Words.** Words not specifically defined in this ordinance shall have the common definition set forth in a standard dictionary.

### SECTION III

#### RESPONSIBILITIES OF OWNERS AND OCCUPANTS

**3.01** No owner or other person shall occupy or let to another person any dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable legal requirements of the State of \_\_\_\_\_ and the (name of Corporate Unit).

**3.02** Every owner of a dwelling containing two (2) or more dwelling units shall maintain in a clean and sanitary condition the shared or public area of the dwelling and premises thereof.

**3.03** Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.

**3.04** Every occupant of a dwelling or dwelling unit shall store and dispose of all his rubbish in a clean, sanitary and safe manner.

**3.05** Every occupant of a dwelling or dwelling unit shall store and dispose of all his garbage, refuse, and any other organic waste which might provide food for insects and/or rodents in a clean, sanitary, safe manner. All garbage cans and refuse containers shall be rat-proof, insect-proof, water tight, structurally strong

to withstand handling stress, easily filled, emptied and cleaned; shall be provided with tight-fitting covers or similar closures; and shall be maintained at all times in a clean sanitary condition. Plastic bags may be used as garbage and refuse container liners, but shall not be used without the container for on-site storage of garbage or refuse.

**3.05.01** Garbage and refuse cans in storage areas shall be placed on concrete slabs or on fixed platforms which are at least eighteen (18) inches above the ground, or on a mobile or movable platform.

**3.05.02** Bulk storage containers which are used for the storage of garbage, refuse and/or other putrescible waste shall be placed on concrete platforms which are constructed to minimize spillage onto the adjacent areas and shall be equipped with drains properly connected to an approved sewer system. In the immediate vicinity of the bulk storage container there shall be a water faucet for use in cleaning each bulk storage container at the site of storage or there shall be provided some other means approved by the (Appropriate Authority) for the cleansing of the container. All bulk storage containers shall be equipped with self-closing lids.

**3.06** The total capacity of all provided garbage and/or refuse cans and bulk storage containers shall be sufficient to meet the needs of the occupants of the dwelling.

**3.07** Every owner of a dwelling containing three (3) or more dwelling units shall supply facilities or refuse containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of single or two (2) family dwellings it shall be the responsibility of each occupant to furnish such facilities or refuse containers.

**3.08** The owner of a dwelling unit shall be responsible for providing and hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this ordinance or any rule or regulation adopted pursuant thereto, except where there is a written agreement between the owner and occupant. In the absence of such an agreement, maintenance or replacement of screens, storm doors and windows, once installed in any one (1) season becomes the responsibility of the occupant. The occupant's responsibility shall be exclusive to his or her dwelling unit.

**3.09** Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects, and/or rats, on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding, the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonable insect-proof condition, extermination shall

be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

**3.10** No occupant of a dwelling or dwelling unit shall accumulate rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rat harborage in or about any dwelling or dwelling unit. Stored materials shall be stacked neatly in piles elevated at least eighteen (18) inches above the ground or floor.

**3.11** No owner of a dwelling containing three (3) or more dwelling units shall accumulate or permit the accumulation of rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rat harborage in or about the shared or public areas of a dwelling or its premises. Materials stored by the owner or permitted to be stored by the owner shall be stacked neatly in piles elevated at least eighteen (18) inches above the ground floor.

**3.12** No owner or occupant of a dwelling or dwelling unit shall store, place, or allow to accumulate any materials which may serve as food for rats in a site accessible to rats.

**3.13** Every occupant of a dwelling unit shall keep all supplied fixtures and facilities therein in a clean, sanitary, and operable condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

**3.14** In every dwelling unit and/or rooming unit when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least 68°F shall be maintained in all habitable rooms, bathroom, and water closet compartments at a distance of thirty six (36) inches above the floor level.

**3.15** Every owner of a dwelling or dwelling unit shall provide and maintain the dwelling or dwelling unit free from hazards to health due to the presence of toxic substances, e.g. lead-based paint, as determined by the (Appropriate Authority).

**3.16** No owner or occupant shall apply a lead-based paint to any surface in any dwelling, dwelling unit, rooming house and/or rooming unit.

## SECTION IV

### MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

**4.01** Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall have adequate circulation area, and which shall be equipped with the following:

**4.01.01** A kitchen sink in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the (Appropriate Authority).

**4.01.02** Cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not under ordinary summer conditions require refrigeration for safe keeping; and a counter or table for food preparation; said cabinets and/or shelves and counter or table shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or harmful effect to food.

**4.01.03** A stove, or similar device, for cooking food, and a refrigerator, or similar device, for the safe storage of food at temperatures less than 45°F but more than 32°F under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; **provided** that such stove, refrigerator, and/or similar devices need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, and that sufficient space and adequate connections for the safe and efficient installation and operation of said, stove, refrigerator and/or similar devices are provided.

**4.02** Within every dwelling unit there shall be a non-habitable room which affords privacy to a person within said room and which is equipped with a **flush water closet** in good working condition. Said flush water closet shall be equipped with easily cleanable surfaces, be properly connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and shall be properly connected to a sewer system which is approved by the (Appropriate Authority).

**4.03** Within every dwelling unit there shall be a **lavatory sink**. Said lavatory sink may be in the same room as the flush water closet, or, if located in another room, the lavatory sink shall be located in close proximity to the door leading

directly into the room in which said water closet is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is properly connected to a sewer system approved by the appropriate authority. Water inlets for lavatory sinks shall be located above the overflow rim of these facilities.

**4.04** Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a **bathtub** or **shower** in good working condition. Said bathtub or shower may be in the same rooms as the flush water closet or in another room and shall be properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated water under pressure, and which is connected to a sewer system approved by the appropriate authority. Water inlets for bathtubs shall be located above the overflow rim of these facilities.

**4.05** Every dwelling unit shall have at least two (2) means of egress leading to safe and open space at ground level. Every dwelling unit in a multiple dwelling shall have immediate access to two (2) or more approved means of egress leading to safe and open space at ground level, or as required by the laws of this State and this (name of Corporate Unit). Bedrooms located below the fourth (4th) floor shall be provided with an exterior door or window of such dimensions as to be used as a means of emergency egress.

**4.06** Structurally sound hand rails shall be provided on any steps containing four (4) risers or more. Porches, patios, and/or balconies located more than three (3) feet higher than the adjacent area shall have structurally sound protective guard or hand rails.

**4.07** Each dwelling unit shall have facilities for the safe storage of drugs and household poisons.

**4.08** Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit.

**4.09** No person shall let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling or dwelling unit are equipped with functioning locking devices.

## SECTION V

### MINIMUM STANDARDS FOR LIGHT AND VENTILATION

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not

comply with the requirements of this section:

**5.01** Every habitable room shall have at least one window or skylight facing outdoors provided that if connected to a room or area used seasonally (e.g. porch) then adequate daylight must be possible thru this inter-connection. The minimum total window or skylight area, measured between stops, for every habitable room shall be at least ten percent of the floor area of such room but if light-obstruction structures are located less than three feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.

**5.02** Every habitable room shall have at least one (1) window or skylight facing directly outdoors which can be opened easily, or such other device as will ventilate the room adequately, provided that if connected to a room or area used seasonally then adequate ventilation must be possible through this inter-connection. The total of openable window or skylight area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size or minimum skylight type window size, as required in subsection 5.01 of this ordinance, except where there is supplied some other device affording adequate ventilation and approved by the (Appropriate Authority).

**5.02.01** When facilities for interior climate control (heating, cooling, and/or humidity) are integral functions of structures containing dwelling units or rooming units, such facilities shall be maintained and operated in a continuous manner and in accordance with the designed capacity of the installed equipment. During instances when the integral equipment is inoperative because of power or mechanical failure, alternative provisions for fresh air ventilation of each dwelling or rooming unit shall be provided.

**5.03** Every bathroom and water closet compartment, and non-habitable room used for food preparation, shall comply with the light and ventilation requirement for habitable rooms contained in subsection 5.01 and 5.02, except that no window or skylight shall be required in such rooms if they are equipped with a ventilation system in working condition, which is approved by the Appropriate Authority.

**5.04** Where there is usable electric service readily available from power lines which are not more than three hundred (300) feet away from a dwelling, every dwelling unit and all public and common areas shall be supplied with electric service, outlets, and fixtures which shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by the ordinances, rules and regulations of the (name of Corporate Unit). The minimum capacity of such services and the minimum number of outlets and fixtures shall be as follows:

**5.04.01** Every dwelling unit shall be supplied with at least one (1) 15 ampere circuit and such circuit shall not be shared with another dwelling unit.

**5.04.02** Every habitable room shall contain at least two separate wall type duplex electric convenience outlets or one such duplex convenience outlet and one supplied wall or ceiling type electric light fixture. No duplex outlet shall serve more than two fixtures or appliances.

**5.04.03** Temporary wiring or extension cords shall not be used as permanent wiring.

**5.04.04** Every non-habitable room, including water closet compartments, bathrooms, laundry rooms, furnace rooms, and public halls shall contain at least one (1) supplied ceiling or wall-type electric light fixture.

**5.04.05** All electric lights and outlets in bathrooms shall be controlled by switches which are of such design as shall minimize the danger of electric shock, and such lights and outlets shall be installed and maintained in such condition as to minimize the danger of electrical shock.

**5.05** Every public hall and stairway in every multiple dwelling shall be adequately lighted by natural or artificial light at all times, so as to provide in all parts thereof at least ten (10) footcandles of light at the tread of floor level. Every public hall and stairway in structures containing not more than two (2) dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed instead of full-time lighting.

## SECTION VI

### MINIMUM THERMAL STANDARDS

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements.

**6.01** Every dwelling shall have heating equipment and appurtenances which are properly installed, and are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least 68°F at a distance of thirty six (36) inches above floor level under ordinary winter conditions.

**6.02** No owner or occupant shall install, operate or use a heating device, including hot water heating units, which employs the combustion of

carbonaceous fuel, which is not vented to the outside of the structure in an approved manner, and which is not supplied with sufficient air to continuously support the combustion of the fuel. All heating devices shall be constructed, installed, and operated in such a manner as to minimize accidental burns.

## SECTION VII

### GENERAL REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF PARTS OF DWELLINGS AND DWELLING UNITS

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

**7.01** Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch, and every appurtenance thereto, shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and uniform treads.

**7.02** Every foundation, roof and exterior wall, door, skylight and window shall be reasonably weather-tight, water-tight and damp-free, and shall be kept in sound condition and good repair. Floors, interior walls and ceilings shall be sound and in good repair. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint which is not lead-based paint or by other protective covering or treatment. Walls shall be capable of affording privacy for the occupants.

**7.03** Every premises shall be graded, drained, free of standing water, and maintained in a clean, sanitary and safe condition.

**7.04** Unless other provisions are made, gutters, leaders and down-spouts shall be provided and maintained in good working condition as to provide proper drainage of storm water.

**7.05** Every window, exterior door and hatchway or similar device shall be so constructed to exclude insects during that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects.

**7.05.01** Every doorway used for ventilation and opening directly from a dwelling unit to outside space shall have supplied properly fitting screens having at least sixteen (16) mesh and with a selfclosing device.

**7.05.02** Every window or other device with openings to outdoor space, used for ventilation, shall be supplied with screens: except that such screens

shall not be required (a) in rooms deemed by the (Appropriate Authority) to be located high enough as to be free from such insects, and/or (b) in rooms located in areas of this (name of Corporate Unit) which are deemed by the (Appropriate Authority) to have so few insects as to render screens unnecessary.

**7.06** Every dwelling, multiple dwelling, rooming house or accessory structure and the premises on which located shall be maintained in a rat-free and ratproof condition.

**7.06.01** All openings in the exterior walls, foundations, basements, ground or first floors and roofs which have a half-inch diameter or more opening shall be ratproofed in an approved manner if they are within forty-eight (48) inches of the existing exterior ground level immediately below such openings, or if they may be reached by rats from the ground by climbing unguarded pipes, wires, cornices, stairs, roofs, and other items such as trees or vines or by burrowing.

**7.06.02** All windows located at or near ground level used or intended to be used for ventilation, all other openings located at or near ground level, and all exterior doorways which might provide an entry for rats, shall be supplied with adequate screens or such other devices as will effectively prevent the entrance of rats into the structure.

**7.06.03** All sewers, pipes, drains or conduits and openings around such pipes and conduits shall be constructed to prevent the ingress or egress of rats to or from a building.

**7.06.04** Interior floors of basements, cellars and other areas in contact with the soil shall be rat-proofed in an approved manner.

**7.06.05** Materials stored outside the dwelling shall be stacked and elevated so that there will be at least an eighteen (18) inch opening between the material and the ground level so as to prevent the creation of a rat harborage area. No stacking or piling of material shall take place against the exterior walls of the structure.

**7.06.06** Any materials used for rat-proofing shall be acceptable to the (Appropriate Authority).

**7.07** All fences shall be constructed of approved fencing material, shall be maintained in good condition and shall not create a harborage for rats. Wood materials shall be protected against decay by use of paint which is not lead-based paint or by other preservative material. The permissible height and other characteristics of all fences shall conform to the appropriate statutes, ordinances, and regulations of this (name of Corporate Unit) and the State of . Wherever any egress from the dwelling opens into the

fenced area, there shall be a means of egress from the premises to any public way adjacent thereto.

**7.08** Accessory structures present or provided by the owner, agent, or tenant occupant on the premises of a dwelling shall be structurally sound, and be maintained in good repair and free of insects and rats, or such structures shall be removed from the premises. The exterior of such structures shall be made weather resistant through the use of decay-resistant materials or the use of lead-free paint or other preservatives.

**7.09** Every plumbing fixture and all water and waste pipes shall be properly installed and maintained in good sanitary working condition.

**7.10** Every water closet compartment, bathroom and kitchen floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

**7.11** Every plumbing fixture and pipe, every chimney, flue, and smoke pipe, and every other facility, piece of equipment, or utility which is present in a dwelling or dwelling unit, or which is required under this ordinance, shall be constructed and installed in conformance with the appropriate statutes, ordinances and regulations of this (name of Corporate Unit) and the State of

**7.12** No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this ordinance to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him; except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the appropriate authority.

**7.13** All construction and materials, ways and means of egress, and installation and use of equipment shall conform with the appropriate statutes, ordinances, and regulations dealing with fire protection of this (name of Corporate Unit) and the State of

## **SECTION VIII**

### **MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS**

No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose of living therein, unless there is compliance with the requirements of this section.

**8.01** The maximum occupancy of any dwelling unit shall not exceed the lesser value of the following two requirements:

**8.01.01** For the first occupant there shall be at least one hundred fifty (150) square feet of floor space and there shall be at least one hundred (100) square feet of floor space for every additional occupant thereof; the floor space to be calculated on the basis of total habitable room area;

**8.01.02** A total number of persons shall be less than two (2) times the number of habitable rooms within the dwelling unit.

**8.02** Not more than one (1) family, plus two (2) occupants unrelated to the family, except for guests or domestic employees, shall occupy a dwelling unit unless a license for a rooming house has been granted by the Appropriate Authority.

**8.03** The ceiling height of any habitable room shall be at least seven (7) feet; except that in any habitable room under a sloping ceiling at least one half of the floor area shall have a ceiling height of at least seven (7) feet, and the floor area of that part of such a room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.

**8.04** No space located up to four feet (4'-0") below grade shall be used as a habitable room of a dwelling unit unless approved by the (Appropriate Authority) in writing.

**8.05** No space located more than four feet (4'-0") below grade shall be used as a habitable room of a dwelling unit.

**8.06** In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space for the first occupant and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.

**8.07** No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room ; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement or cellar or to the exterior of the dwelling unit.

**8.08** Every dwelling unit shall have at least four (4) square feet of floor-to-ceiling height closet space for the personal effects of each permissible occupant;

if it is lacking, in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.

## SECTION IX

### ROOMING HOUSE, ROOMING UNITS, DORMITORIES, DORMITORY ROOMS

No person shall operate a rooming house or dormitory, or shall occupy or let to another for occupancy any dormitory room and/or rooming unit in any rooming house or dormitory, which is not in compliance with the appropriate provisions of every section of this ordinance. No owner or other person shall occupy or let to another person any rooming unit or dormitory room unless it is clean and sanitary, and complies with all applicable requirements of (name of Corporate Unit).

**9.01** No person shall operate a rooming house unless he holds a valid rooming house license issued by the (Appropriate Authority) in the name of the operator and for the specific dwelling or dwelling unit. The operator shall apply to the (Appropriate Authority) upon compliance by the operator with the applicable provisions of this ordinance and of any rules and regulations adopted pursuant thereto. This license shall be displayed in a conspicuous place within the rooming house at all times. No such license shall be transferable. Every person holding such a permit shall give notice in writing to the (Appropriate Authority) within twenty-four (24) hours after having sold, transferred, given away, or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every rooming house license shall expire at the end of one (1) year following its date of issuance, unless sooner suspended or revoked as hereinafter provided.

**9.02** At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the (Appropriate Authority) and in good working condition, shall be supplied for each six (6) persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities, provided:

**9.02.01** That in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half the required number of water closets and provided that there shall be at least one water closet.

**9.02.02** That all such facilities shall be so located within the dwelling as to reasonably accessible to all persons sharing such facilities and from a common hall or passageway and provided that such facilities are not located more than one floor above or below the rooming unit or units served.

**9.02.03** That every lavatory basin and bathtub or shower stall be supplied with heated and unheated water under pressure at all times.

**9.02.04** That, if the rooming house has only one bathroom for use by the occupants of the rooming units, said bathroom shall not be located below grade.

**9.03** The following provision shall apply in all rooming houses and dormitories.

**9.03.01** Cooking in dormitory rooms and rooming units is prohibited.

**9.03.02** Communal cooking and dining facilities in a rooming house are prohibited, except as approved by the (Appropriate Authority) in writing.

**9.03.03** All food service and dining facilities provided in a rooming house or dormitory for the occupants of same shall comply with applicable food service legislation.

**9.03.04** Access doors to rooming units, dormitory rooms, shall have operating locks to insure privacy.

**9.04** Unless exempted by the (Appropriate Authority) in writing, the operator of every rooming house shall change supplied bed linen and towels therein at least once a week, and prior to the letting of any room to any occupant, and the operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

**9.05** Every rooming unit shall comply with all the requirements of this ordinance pertaining to a habitable room.

**9.05.01** Every rooming unit occupied by one (1) person shall contain at least one hundred ten (110) square feet of floor space and every rooming unit occupied by more than one person shall contain at least ninety (90) square feet for each occupant thereof; further, every rooming unit shall contain also at least four (4) square feet of closet space for each occupant with at least an unobstructed height of five (5) feet. If the closet space is lacking in whole or in part, space of the amount of the deficiency shall be subtracted from the area of the habitable room space when determining occupancy.

**9.06** Every rooming unit shall have immediate access to two (2) or more approved means of egress, appropriately marked, leading to safe and open space at ground level or as required by the appropriate statutes, ordinances, and regulations of this (name of Corporate Unit) and the State of

**9.07** Structurally sound handrails shall be provided on any steps containing four

(4) risers or more. Porches, patios and/or balconies located more than three (3) feet higher than the adjacent areas shall have structurally sound protective guard or handrails.

9.08 Access to or egress from each rooming unit shall be provided without passing through any other rooming unit.

## SECTION X

### ADOPTION OF PLANS OF INSPECTION BY THE (APPROPRIATE AUTHORITY)

10.01 The (Appropriate Authority) is hereby authorized and directed to develop and adopt plans for the inspection of dwelling units subject to the provisions of this ordinance, including:

10.01.01 A plan for the periodic inspection of multiple dwellings and rooming houses subject to the provisions of Section XII, governing the licensing of the operation of such dwellings;

10.01.02 A plan for the systematic inspection of dwelling units contained within this (name of Corporate Unit) as may from time to time be designated by the (Appropriate Authority).

10.02 Before making inspections pursuant to a plan authorized in Paragraph 10.01.02, the (Appropriate Authority) shall advise the public of the plan to inspect.

## SECTION XI

### INSPECTIONS: POWERS AND DUTIES OF THE (APPROPRIATE AUTHORITY)

11.01 The (Appropriate Authority) shall enforce the provisions of this ordinance and is hereby authorized and directed to make inspections pursuant to one (1) or more of the plans for inspection authorized by Section 10.01; or in response to a complaint that an alleged violation of the provisions of this ordinance or of applicable rules or regulations pursuant thereto may exist; or when the (Appropriate Authority) has valid reason to believe that a violation of this ordinance or any rules and regulations pursuant thereto has been or is being committed.

11.02 The (Appropriate Authority) is hereby authorized to enter and inspect between the hours of 8:00 a.m. and 5:00 p.m. all dwellings, dwelling units, and rooming houses, rooming units, dormitories and dormitory rooms subject to the

provisions of this ordinance for the purpose of determining whether there is compliance with its provisions.

**11.03** The (Appropriate Authority) is hereby authorized to inspect the premises surrounding dwellings, dwelling units, rooming houses, rooming units, dormitories and dormitory rooms subject to this ordinance, for the purpose of determining whether there is compliance with its provisions.

**11.04** The (Appropriate Authority) and the owner, occupant or other person in charge of a dwelling, dwelling unit, rooming unit, rooming house or dormitory room subject to this ordinance may agree to an inspection by appointment at a time other than the hours provided in Paragraph 11.02 by this ordinance.

**11.05** The owner, occupant or other person in charge of a dwelling, dwelling unit, rooming unit, rooming house or dormitory room upon presentation of proper identification by the (Appropriate Authority), a copy of any relevant plan of inspection pursuant to which entry is sought, and a schedule of the specific areas and facilities to be inspected shall give the (Appropriate Authority) entry and free access to every part of the dwelling, dwelling unit, rooming unit or dormitory room or to the premises surrounding any of these.

**11.06** The (Appropriate Authority) shall keep confidential all evidence, exclusive of the inspection record, which it may discover or obtain in the course of an inspection made pursuant to this section and such evidence shall be considered privileged.

**11.07** If any owner, occupant, or other person in charge of a dwelling, dwelling unit or rooming unit, or of a multiple dwelling or a rooming house subject to licensing under Section XII, fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof, with respect to which an inspection authorized by this ordinance is sought to be made, the (Appropriate Authority) may, upon a showing that probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this section with respect to such dwelling, dwelling unit, rooming unit, multiple dwelling, or rooming house, petition and obtain such order from a court of competent jurisdiction.

**11.07.01** When required the (Appropriate Authority) shall obtain the necessary order from the court to conduct the inspection.

## SECTION XII

### LICENSING OF THE OPERATION OF MULTIPLE DWELLINGS AND ROOMING HOUSES

**12.01** No person shall operate a multiple dwelling or rooming house unless he

holds a current, unrevoked operating license issued by the (Appropriate Authority) in his name for the specific named multiple dwelling or rooming house.

**12.02** Every operating license shall be issued for a period of one (1) year from its date of issuance unless sooner revoked, and may be renewed for successive periods of not to exceed one (1) year.

**12.03** The (Appropriate Authority) is hereby authorized upon application therefor to issue new operating licenses, and renewals thereof, in the names of applicant owners or operators of multiple dwellings and rooming houses. No such licenses shall be issued unless the multiple dwelling or rooming house in connection with which the license is sought is found after inspection to meet all applicable requirements of this ordinance and applicable rules and regulations pursuant thereto.

**12.04** No operating license shall be issued or renewed unless the applicant owner or operator has first made application therefor on an application form provided by the (Appropriate Authority). The (Appropriate Authority) shall develop such forms and make them available to the public.

**12.05** No operating license shall be issued or renewed unless the applicant owner or operator agrees in his application to such inspection pursuant to sections 10.01 and 11.01 as the (Appropriate Authority) may require to determine whether the multiple dwelling or rooming house in connection with which such license is sought is in compliance with the applicable provisions of this ordinance and with applicable rules and regulations pursuant thereto.

**12.06** No operating license shall be issued or renewed unless the completed application form is accompanied by payment of a license fee of \_\_\_\_\_ dollars.

**12.07** No operating license shall be issued or renewed for a nonresident applicant, unless such applicant designates in writing to the (Appropriate Authority) the name of his agent for the receipt of service of notice of violation of the provisions of this ordinance and for service of process pursuant to this ordinance.

**12.08** No operating license shall be issued or renewed for a resident applicant, unless such applicant has first designated an agent for the receipt of service of violations of the provisions of this ordinance, when said applicant is absent from this (name of Corporate Unit) for thirty (30) or more days. Such a designation shall be made in writing, and shall accompany each application form.

The applicant may designate any person resident in this (name of Corporate Unit) his agent for this purpose, or may designate the (Appropriate Authority) as his agent for this purpose.

**12.09** No operating license shall be renewed unless an application therefore has been made within sixty (60) days prior to the expiration of the present operating license.

**12.10** Each license shall be displayed in a conspicuous place within the common ways of the multiple dwelling or rooming house. No license shall be transferable to another person, or to another multiple dwelling or rooming house. Every person holding an operating license shall give notice in writing to the (Appropriate Authority) within twenty-four (24) hours after having transferred or otherwise disposed of the legal control of any licensed multiple dwelling or rooming house. Such notice shall include the name and address of the person or persons succeeding to the ownership or control of such multiple dwelling or rooming house.

**12.11** Every owner or operator of a licensed multiple dwelling or rooming house shall keep or cause to be kept, an accurate record of all repairs, alterations, and equipment changes related to the provisions of this ordinance or to any rules and regulations pertaining thereto, and of all corrections made as the result of inspections by the (Appropriate Authority). Such record shall be made available to the (Appropriate Authority) by the owner or operator when requested. Every owner or operator subject to this section shall be notified that such record may be used in administrative or judicial proceedings pursuant to the provisions of this ordinance. The Administrative Authority shall, upon issuance of a license as required in Section 12.01, advise the licensee of the necessity for such record and the manner in which such record shall be kept.

**12.12** Whenever, upon inspection of the licensed multiple dwelling or rooming house, or of the records required to be kept by section 12.11, the (Appropriate Authority) finds that conditions or practices exist which are in violation of the provisions of this ordinance or of any applicable rules and regulations pursuant thereto, he shall serve the owner or operator with notice of such violation in the manner hereinafter provided. Such notice shall state that unless the violations cited are corrected within reasonable time, the operating license may be suspended.

**12.13** At the end of the time he has allowed for correction of any violation cited, the (Appropriate Authority) shall reinspect the multiple dwelling or rooming house, and if he determines that such conditions have not been corrected, he may issue an order suspending the operating license.

**12.14** Any person whose license to operate a multiple dwelling or rooming house has been suspended shall be entitled to a reconsideration of the order by an administrative conference or by an appeal to the Housing Code Appeals Board in the manner hereinafter provided by this ordinance. If no request for reconsideration or appeal reaches the (Appropriate Authority) within twenty-one (21) days following the issuance of the order of suspension, the license shall

be revoked, except that prior to revocation any person whose license has been suspended may request reinspection, upon a showing that the violation or violations cited in the notice have been corrected.

**12.15** If, upon reinspection, the (Appropriate Authority) finds that the multiple dwelling or rooming house in connection with which the notice was issued is now in compliance with this ordinance and with applicable rules and regulations issued pursuant thereto, he shall reinstate the license. A request for reinspection shall not extend the suspension period, unless the (Appropriate Authority) grants such request.

## **SECTION XIII**

### **RULES AND REGULATIONS**

**13.01** The (Appropriate Authority) is hereby authorized to make, adopt, revise and amend procedural rules and regulations as it deems necessary to administer the purposes of this ordinance.

## **SECTION XIV**

### **NOTICE OF VIOLATION**

**14.01** Whenever the (Appropriate Authority) determines that any dwelling, dwelling unit, or rooming unit, or the premises surrounding any of these, fails to meet the requirements set forth in this ordinance or in applicable rules and regulations issued pursuant thereto, the (Appropriate Authority) in accordance with existing legislation shall issue a notice setting forth the alleged failures, and advising the owner, occupant, operator, or agent that such failures must be corrected. This notice shall:

**14.01.01** Be in writing.

**14.01.02** Set forth the alleged violations of this ordinance or of applicable rules and regulations issued pursuant thereto.

**14.01.03** Describe the dwelling, dwelling unit or rooming unit where the violations are alleged to exist or to have been committed. Such written notice shall specify an appropriate or acceptable method of correction.

**14.01.04** Specify a specific date for the correction of any violation alleged.

**14.01.05** Be served upon the owner, occupant, operator, or agent of the dwelling, dwelling unit, or rooming unit personally, or by registered mail, return receipt requested, addressed to the owner, occupant, operator or

agent. If one (1) or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting the notice in or about the dwelling, dwelling unit or rooming unit described in the notice, or by causing such notice to be published in a newspaper of general circulation for a period of consecutive days; or

**14.01.06** Be served upon a resident agent for the receipt of such services of notice designated pursuant to Paragraph 12.08; or

**14.01.07** Be served upon the (Appropriate Authority) where he has been designated agent for such service pursuant to Paragraph 12.07.

**14.02** At the end of the period of time allowed for the correction of any violation alleged, the (Appropriate Authority) shall reinspect the dwelling, dwelling unit or rooming unit described in the notice.

**14.03** If upon reinspection the violations are determined by the (Appropriate Authority) not to have been corrected, the (Appropriate Authority) shall initiate legal proceedings for the immediate correction of the alleged violations or shall order the dwelling, dwelling unit or rooming unit vacated within 30 days or both.

## SECTION XV

### PENALTIES

**15.01** Any owner, occupant, operator, or agent of a dwelling, dwelling unit, or rooming unit who has received an order or notice of an alleged violation of this ordinance shall be subject to a penalty of \_\_\_\_\_ dollars, or \_\_\_\_\_ days in jail, or both, for each day each alleged violation continues after expiration of the specified reasonable consideration period; provided that no such penalty shall be applicable while a reconsideration, hearing or appeal to a court of competent jurisdiction is pending in the matter.

## SECTION XVI

### REPAIRS, DESIGNATION OF UNFIT UNITS AND/OR STRUCTURES AND OTHER CORRECTIVE ACTION: DEMOLITION

**16.01** Repairs and Other Corrective Action

**16.01.01** Whenever an owner, operator, or agent of a dwelling, dwelling unit, rooming unit, dormitory or dormitory room fails, neglects, or refuses

to make repairs or other corrective action called for by the order or notice of violation issued pursuant to Paragraph 14.01 the (Appropriate Authority) may undertake such repairs or action, when in its judgment a failure to make them will endanger the public health, safety, or welfare, and the cost of such repairs and action will not exceed fifty (50) percent of the fair market of the structure to be repaired.

**16.01.02** Notice of the intention to make such repairs or take other corrective action shall be served upon the owner, operator, or agent pursuant to Section XIV; or upon the (Appropriate Authority) as designated agent for service pursuant to paragraph 12.07; or upon the resident agent of the owner, as designated agent for service pursuant to paragraph 12.08.

**16.01.03** Every owner, operator, or agent of a dwelling, dwelling unit, rooming unit, dormitory or dormitory room who has received notice of the intention of the (Appropriate Authority) to make repairs or take other corrective action shall give entry and free access to the agent of the (Appropriate Authority) for the purpose of making such repairs. Any owner, operator, or agent of a dwelling, dwelling unit, rooming unit, dormitory or dormitory room who refuses, impedes, interferes with or hinders, or obstructs entry by such agent pursuant to a notice of intention to make repairs or take other corrective action shall be subject to a civil penalty of \_\_\_\_\_ dollars for each such failure to comply with this section.

**16.01.04** When repairs are made or other corrective action taken at the direction of the (Appropriate Authority), cost of such repairs and corrective action shall constitute a debt in favor of this (name of Corporate Unit) against the owner of the repaired structure. In the event such owner fails, neglects, or refuses to pay (name of Corporate Unit) the amount of this debt, it shall be recoverable in a civil action against the owner or his successor, brought in a court of competent jurisdiction by (name of Corporate Unit), which shall possess all rights of a private creditor.

## **16.02 Designation of Unfit Dwellings, Dwelling Units, Rooming Houses, Rooming Units, Dormitories and Dormitory Rooms.**

**16.02.01** Any dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room shall be designated as unfit for human habitation when any of the following defects or conditions is found, and when, in the judgment of the (Appropriate Authority), such defect creates a hazard to the health, safety, or welfare of the occupants or of the public:

**16.02.01.01** Is damaged, decayed, dilapidated, unsanitary, unsafe, and/or vermin-infested and/or contains hazardous levels of lead-based paint or other substance.

**16.02.01.02** Lacks illumination, ventilation and/or required sanitation facilities.

**16.02.01.03** The general condition of location is unsanitary, unsafe and/or unhealthful.

**16.02.02** Whenever any dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room has been designated as unfit for human habitation, the (Appropriate Authority) shall placard the dwelling, dwelling unit, rooming unit, dormitory or dormitory room, indicating that it is unfit for human habitation, and, if occupied, shall order dwelling, dwelling unit, or rooming unit vacated within a reasonable time, such time to be not less than (number of days or hours) or more than (number of days).

**16.02.02.01** Whenever any dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room has been placarded and vacated the (Appropriate Authority) shall order services and utilities to be turned off or disconnected and all utility meters to be removed.

**16.02.03** No dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room which has been designated as unfit for human habitation, has been placarded as such and vacated shall be used again for human habitation until written approval is secured from the (Appropriate Authority) and the placard removed by the (Appropriate Authority).

**16.02.04** The (Appropriate Authority) shall rescind the designation as unfit for human habitation and remove the placard when the defect or condition upon which such designation and placarding was based has been removed or eliminated and the dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room is deemed by the (Appropriate Authority) as a safe, sanitary, and fit place or unfit for human habitation.

**16.02.05** No person shall deface or remove the placard from any dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room which has been designated as unfit for human habitation and has been placarded as such, except as provided in Section 16.02.04.

**16.02.06** Any person affected by any decision of the (Appropriate Authority) or by any designation or placarding of a dwelling, dwelling unit, rooming unit, dormitory or dormitory room as unfit for human habitation shall be granted a hearing on the matter before the (Appropriate Authority) under the procedure set forth in Section XVIII of this ordinance.

**16.03** Demolition of Dwellings, Dwelling Units, Rooming Houses, Rooming Units, Dormitories or Dormitory Rooms Designated as Unfit for Human Habitation.

**16.03.01** The (Appropriate Authority) shall order a dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room to be demolished if it has been designated as unfit for human habitation, has been placarded as such, has been vacated, has not been put into proper repair so as to rescind the designation as unfit for human habitation and to cause the placard to be removed, and is determined by the (Appropriate Authority) not to warrant repair under Section 16.01.01.

**16.03.02** The owner of any dwelling, dwelling unit, rooming house, or rooming unit, dormitory or dormitory room which has been ordered demolished shall be given notice of this order in the manner provided for service of notice in Section XIV and shall be given a reasonable time, not to exceed ninety (90) days, to demolish such structure.

**16.03.03** Any owner aggrieved by the notice to demolish may within days seek a reconsideration of the matter in the manner hereinafter provided, and may seek a hearing in the manner provided in Section XVIII.

**16.03.04** When the owner fails, neglects, or refuses to demolish an unfit, unsafe, or unsanitary dwelling, dwelling unit, rooming house, rooming unit, dormitory or dormitory room within the requisite time, the (Appropriate Authority) may apply to a court of competent jurisdiction for a demolition order. The court may grant such order when no reconsideration or hearing on the matter is pending. If the cost of such demolition shall create a debt in favor of this (name of Corporate Unit) against such owner, such costs shall be recoverable in a civil action brought by this (name of Corporate Unit) which shall possess all the rights of a private creditor.

**16.03.05** Whenever a dwelling or rooming house is demolished, whether carried out by the owner or by the (Appropriate Authority), such demolition shall include the filling in of the excavation on which the demolished dwelling or rooming house was located in such manner as to eliminate all potential danger to the public health, safety, or welfare arising from such excavation.

**16.03.06** All demolition shall be preceded by an inspection of the premises by the (Appropriate Authority) to determine whether or not extermination procedures are necessary. If the premises are found to be infested, appropriate rat extermination to prevent the spread of rats to adjoining or other areas shall be instituted before, during, and after demolition.

**SECTION XVII**  
**COLLECTION AND DISSEMINATION**  
**OF INFORMATION**

**17.01** The (Appropriate Authority) is hereby authorized to collect and disseminate information concerning techniques of maintenance, repair, and sanitation in housing, and concerning the requirements of this ordinance and applicable rules and regulations issued pursuant thereto.

**SECTION XVIII**  
**APEALS**

**18.01** There is hereby created a Housing Code Appeals Board consisting of (membership characteristics enumerated). The (Appropriate Person or Agency) shall designate the Chairman and Secretary of Housing Code Appeals Board. When feasible, minority representation on the Housing Code Appeals Board shall be provided.

**18.02** The Housing Code Appeals Board shall adopt reasonable rules and regulations for the conduct of its meetings and investigations and shall render all decisions and findings in writing to the (Appropriate Official) and all decisions and findings shall be made part of the public record.

**18.03** Any person aggrieved by a notice of the (Appropriate Authority) issued in connection with any alleged violation of this ordinance or of any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the (Appropriate Authority) for an administrative conference for reconsideration of such notice or order provided such application is made within fourteen (14) days after the date the notice or order was issued. If the (Appropriate Authority) holds an administrative conference for reconsideration of notice or order, the (Appropriate Authority) shall prepare a summary of the conference and shall state the decision reached; such summary and statement shall become part of the public record.

**18.04** Any person aggrieved by a notice of the (Appropriate Authority) issued in connection with any alleged violation of this ordinance or of any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the Housing Code Appeals Board for a reconsideration of such notice or order provided such application is made within twenty-one (21) days after the date the notice or order was issued.

**18.05** The Housing Code Appeals Board, upon receipt of an appeal shall set a time and place for the hearing within ten (10) days of the receipt of such application, and shall advise the applicant in writing of such time and place, at least seven (7) days prior to the date of the hearing.

**18.06** At such a hearing the applicant shall be given an opportunity to be heard and to show cause why such notice or order should be modified, extended, withdrawn, or a variance granted.

**18.07** The Housing Code Appeals Board, by a majority vote, may sustain modify or withdraw the notice or order. In granting an extension or variance of any notice or order, the Appeals Board shall observe the following conditions:

**18.07.01** The Housing Code Appeals Board may grant an extension of time for the compliance of any order or notice for not more than eighteen (18) months subject to appropriate conditions and provided that the Appeals Board makes specific findings of fact based on evidence relating to the following:

**18.07.01.01** That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order; and

**18.07.01.02** That such an extension is in harmony with the general purpose and intent of this ordinance in securing the public health, safety and general welfare.

**18.07.02** The Housing Code Appeals Board may grant a variance in a specific case and from a specific provision of this ordinance subject to appropriate conditions and provided the Appeals Board makes specific findings of fact based on evidence related to the following:

**18.07.02.01** That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order; and

**18.07.02.02** That the effect of the application of the provisions would be arbitrary in the specific case; and

**18.07.02.03** That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships and this arbitrary effect; and

**18.07.02.04** That such variance is in harmony with the general purpose and intent of this ordinance in securing the public health, safety and general welfare.

## **SECTION XIX**

### **EMERGENCIES**

**19.01** Whenever, in the judgment of the (Appropriate Authority) an emergency exists which requires immediate action to protect the public health, safety, or

welfare, an order may be issued, without a hearing or appeal, directing the owner, occupant, operator, or agent to take such action as is appropriate to correct or abate the emergency. If circumstances warrant, the (Appropriate Authority) may act to correct or abate the emergency.

**19.02** The owner, occupant, operator, or agent shall be granted a hearing before the House Code Appeals Board on the matter upon his request, as soon as practicable, but such appeal shall in no case stay the abatement or correction of such emergency.

## SECTION XX

### CONFLICT OF ORDINANCES: EFFECT OF PARTIAL INVALIDITY

**20.01** In any case where a provision of this ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of this (name of Corporate Unit) existing on the effective date of this ordinance, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of this (name of Corporate Unit) existing on the effective date of this ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this ordinance shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this ordinance.

**20.02** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect; and to this end the provisions of this ordinance are hereby declared to be severable.

## SECTION XXI

### EFFECTIVE DATE

**21.01** This ordinance shall be effective on and after the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.



## APPENDIX

### LEGAL NOTES

#### Section I

The enforcement of housing code regulations in the area of a single-family, owner-occupied homes has been held to be constitutional, so long as a valid police power objective is comprehended by the municipality enforcing the code. In the Supreme Court of Illinois, a city ordinance which required a permit before the owner of a single-family owner-occupied home could legally bring a portable plastic swimming pool onto the property, was declared constitutional. The Court points out that municipalities may properly impose restrictions upon individual property owners where these are necessary for the protection of the public health, safety, or welfare. It is only where the regulations objected to do not bear upon such end that there is any lack of due process of law or denial of equal protection of the laws. *Palangio v. City of Chicago*, 23 Ill. 2d 570, 179 N.E. 2d 663 (1962). The New York Court of Appeals applies similar reasoning to enforce a requirement of a permit against the owner of a one-family house who sought to park and maintain a house trailer on her premises. *People v. Lederle*, 206 Misc. 244, 132 N.Y.S. 2d 693 (1954) Aff'd. 309 N.Y. 866, 131 N.E. 2d 284 (1955).

#### Section III

*Boden v. City of Milwaukee*, 8 Wisc. 2d 318, 99 N.W. 2d 156 (1959)

*Paquette v. City of Fall River*, 338 Mass. 368, 155 N.E. 2d 775 (1959)

*Richards v. City of Columbia*, 227 S.C. 538, 88 S.E. 2d 683 (1955)

#### Section IV

An ordinance requiring each dwelling to be equipped with inside bathroom including toilet, lavatory basin, bathtub and/or shower to be connected to hot and cold waterlines, with water heating facilities, and to public sewer, was upheld. *Louisville v. Thompson*, (Ct. App. Ky.) 339 S.W. 2d 869 (1960). The Court held that legislation that is otherwise reasonable does not necessarily become unreasonable because it may require repair, improvement, or even removal of existing equipment in order to comply with it.

Contra: *Early Estates, Inc. v. Housing Board of Review*, 93 R.I. 277, 174 A. 2d 117 (1961). The City of Providence was authorized under State law to enact minimum housing standards. The City ordinance which established such standards required a rear hallway light in petitioner's three-story tenement and was held a valid exercise of the police power by the Supreme Court of Rhode Island, but a section requiring the installation of hot water facilities in a third floor tenement was held to be invalid as in excess of statutory authority to require facilities related to "uncleanliness" of dwellings and which were needed to make such dwelling "fit for human habitation."

Notes on health-related criteria:

*Basic Principles of Healthful Housing* 2nd edition, 1971, American Public Health Association, Washington, D.C., See Principles 16 through 19.

*Paquette v. City of Fall River*, 338 Mass. 368, 155 N.E. 2d 775 (1959)

*Louisville v. Thompson*, (Ct. App. Ky.) 339 S.W. 2d 869 (1960)

*Boden v. City of Milwaukee*, 8 Wisc. 2d 318, 99 N.W. 2d 156 (1959)

*Richards v. City of Columbia*, 227 S.C. 538, 88 S.E. 2d 683 (1955)

*City of Newark v. Charles Realty Co.*, 9 N.J. Super. 442, 74 A. 2d 630 (1950)

Ordinance requiring the removal of privy vaults and the substitution of water closets was held within the power of St. Louis under the scope of the police power doctrine. *City of St. Louis v. Nash* (S. Ct. Mo.) 260 S.W. 985 (1924). In *Paquette v. City of Fall River*, 338 Mass. 368 155 N.E. 2d 775 (1959), the Supreme Judicial Court of Massachusetts upheld a City ordinance requiring inspection provision of hot water, window screens and certain standards of electrical services, toilet facilities, and floor space. These provisions were stated to be clearly within the scope of the police power.

*Paquette v. City of Fall River*, 338 Mass. 368, 155 N.E. 2d 775 (1959)

*Louisville v. Thompson*, (Ct. App. Ky.) 339 S.W. 2d 869 (1960)

*Boden v. City of Milwaukee*, 8 Wisc. 2d 318, 99 N.W. 2d 156 (1959)

*Richards v. City of Columbia*, 227 S.C. 538, 88 S.E. 2d 683 (1955)

*City of Newark v. Charles Realty Co.*, 9 N.J. Super. 442, 74 A. 2d 630 (1950)

## Section V

The Supreme Court of Colorado affirmed the ruling of a lower Court which declared that a Denver ordinance which applies standards of sanitation and cleanliness, heating and electrical facilities, maintenance of buildings, floor space, height of basement ceilings; and maximum number of persons allowed to use bathroom facilities constitutional, though having a retrospective effect and delegating authority to an executive department. *Apple v. City and County of Denver*, 390 P. 2d 91 (Colo., 1964).

Notes on health-related criteria:

*Basic Principles of Healthful Housing*, 2nd edition, 1971, American Public Health Association, Washington, D.C., See Principles 3 through 6.

Licenses or permits for rooming house operation have been upheld as reasonably related to the public welfare. In *Savage v. District of Columbia* (D.C. Mun. App.) 54 A. 2d 562 (1947), licensing requirements were invoked against a defendant who attempted to operate premises as other than a single family dwelling, without first having obtained the proper permit. *People v. Dros*, 14 App. Div. 2d 66, 217 N.Y.S. 2d 417 (1961), where fine and imprisonment for violation of rooming house licensing requirements were held not inconsistent with a sense of justice and not shocking to the conscience. In *McBriety v. City of Baltimore*, 219 Md. 223, 148 A. 2d 408 (1959) a lower court's decision was affirmed by the Court of Appeals of Maryland as relating to the public health, safety, and welfare.

## Section VI

The *Basic Principles of Healthful Housing* sets forth in Principle 1 that it is essential to maintain a thermal environment which will avoid undue heat loss from the human body. Four basic factors which control heat loss from the human body are: ambient air temperature, radiant temperature, relative humidity, and air movement.

Principle 2 states that it is essential to maintain a thermal environment which will permit adequate heat loss from the human body. The same four basic factors are involved.

## Section VII

The Supreme Court of Colorado affirmed the ruling of a lower Court which declared that a Denver ordinance which applied standards of sanitation and cleanliness, heating and electrical facilities, maintenance of buildings, floor space, height of basement ceilings; and maximum number of persons allowed to use bathroom facilities constitutional, though having a retrospective effect and delegating authority to an executive department.

*Apple v. City and County of Denver*, 390 P. 2d 91 (Colo. 1964)

*Boden v. City of Milwaukee*, 8 Wisc. 2d 318, 99 N.W. 2d 156 (1959)

*Richards v. City of Columbia*, 227 S.C. 538, 88 S.E. 2d 683 (1955)

Maintenance of Interior:

Replaster

*Boden v. City of Milwaukee*, 8 Wisc. 2d 318, 99 N.W. 2d 156 (1959)

*City of Newark v. Charles Realty Co.*, 9 N.J. Super. 442, 74 A. 2d 630 (1950)

Repaint

*Paquette v. City of Fall River*, 338 Mass. 368, 155 N.E. 2d 775 (1959)

*City of Newark v. Charles Realty Co.*, 9 N.J. Super. 442, 74 A. 2d 630 (1950)

#### Section VIII

The Supreme Court of Colorado affirmed the ruling of a lower Court which declared that a Denver ordinance which applied standards of sanitation and cleanliness, heating and electrical facilities, maintenance of buildings, floor space, height of basement ceilings; and maximum number of persons allowed to use bathroom facilities constitutional, though having a retrospective effect and delegating authority to an executive department.

*Apple v. City and County of Denver*, 390 P. 2d 91 (Colo. 1964)

*Paquette v. City of Fall River*, 338 Mass. 368, 155 N.E. 2d 775 (1959)

Notes on health-related criteria:

*Housing Programmes; The Role of Public Health Agencies*. World Health Organization (Geneva), Public Health Papers No. 25. pp. 100-102, 1964.

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*McBriety v. City of Baltimore*, 219 Md. 223, 148 A. 2d 408 (1959)

In *Richards v. City of Columbia*, 227 S.C. 538, 88 S.E. 2d 683 (1955) the Supreme Court of South Carolina affirmed a lower court judgement that a City ordinance requiring alteration, repair, or destruction of houses deemed unfit for human habitation and containing a list of standards for decision was not invalid as an arbitrary exercise of police power, except for portion declaring Rehabilitation Director or Commission could determine which houses were unfit for human habitation without legislative direction. Plaintiff landowner's injunction therefore failed.

#### Section X

The use of detailed plans serves the dual purposes of informing the public of the nature of the program of inspection, and of routinizing many inspection procedures for the officers who carry out the provisions of the ordinance. The requirement that the inspector provide the householder with identification and a copy of both the plan of inspection and an individual schedule of the areas and facilities to be inspected is an attempt to afford protection against unauthorized intrusions by strangers.

#### Section XI

The recent decisions of the Supreme Court of the United States in *Camara v. Municipal Court of San Francisco*, 387 U.S. 523 (1967), and *See v. City of Seattle*, 387 U.S. 541 (1967), have made clear that housing code and sanitary inspections of nonpublic areas in dwelling or business premises are "searches" within the meaning of the fourth amendment of the U.S. Constitution and, unless consented to, can only be conducted or compelled under a search warrant procedure.

Under these holdings, the occupant of premises who refuses to permit an inspection of nonpublic areas for which a warrant has not been obtained may not be punished for such a refusal. (For a more detailed discussion of the holdings in these cases and their administrative implications see: Edelman, S. "Search warrants and sanitation inspections – The new look in enforcement." *American Journal of Public Health*, 58(5):930, 1968; 45 *Denver Law Journal* 296, 1968).

This ordinance provides for the seeking of a cease and desist order when entry is refused the inspector.

There is a lack of legal authority in most states for the issuance of a search warrant in connection with proceedings other than those of a criminal nature.

The use of a court order is intended to meet the requirements of the Supreme Court holdings — that there be reference of the question of entry to an impartial magistrate — pending a change in State law which a requirement that an administrative warrant or order issue would necessitate in most jurisdictions. The other provisions of Section X and XI regarding the development of a plan are designed to meet the “probable cause” criteria of the decision.

#### Section XII

Licensing of rental dwellings and rooming houses which requires compliance with certain standards of sanitation has been recognized as a valid exercise of municipal power where a reasonable governing standard is imposed by the ordinance. See *Savage v. District of Columbia*, 54 A. 2d 562 (1947), in which defendant’s conviction for operating a rooming house without first having been issued a certificate of occupancy was upheld. The reason for Savage’s failure to obtain a license was his neglect in correcting conditions which did not meet the sanitary standard set by the licensing ordinance.

A rooming house licensing ordinance has been upheld even when it had a retroactive application. See *Gilman v. Newark*, 73 N.H. Super 562, 180 A. 2d 365 (1962).

The requirement that records of complaints and repairs be kept is properly based upon the exercise of the police power in the regulation of business. See: McQuillin, *The Law of Municipal Corporations*, Vol. III, 24.332, Callaghan & Co., Chicago, 1949.

See *Sherman, Clay & Co. v. Brown*, (Sup. Ct. Wash.) 252 Pac. 137 (1927), where a dealer in second-hand goods was held properly required by a city ordinance to submit a daily record of all business transactions to the local police chief. Record-keeping expedites and greatly facilitates the task of the local housing inspector. The ordinance provides that such records shall be admissible before either a hearing agency or a court, as evidence of failure to correct violations, or to prove that violations complained of have, in fact, been corrected.

#### Section XIV

1. This section is intended to comply with Constitutional requirements of due process. As was said in *Hoehamer v. Village of Elmwood Park*, 361 Ill. 423, 198 N.E. 345 (1932),

“An orderly proceeding in which a person is served with notice, actual or constructive, and has an opportunity to be heard and to protect and enforce his rights before a court having power to hear and determine the cause is due process of law.”

2. The service of notice by newspaper publication is optional unless otherwise

required by law. Larger jurisdictions may find it easier to meet the cost of such publication than will smaller communities.

3. The questions discussed in the note on inspections are present in the area of reinspections, as well. Evidence obtained in reinspections, as well as in initial inspections of a tenant's rooms cannot be gathered for use against the tenant solely on the basis of the landlord's consent to a search, where the penalties to be imposed are of a criminal or quassi-criminal nature. See *Chapman v. United States*, 365 U.S. 610 (1961), where a landlord gave police officers entry to a defendant's rented house wherein he maintained an illegal still. The evidence obtained in the search was declared inadmissible by the Supreme Court. Where the obligation to be enforced is that of the landlord as opposed to the tenant, the landlord's consent to inspection of the tenant's dwelling, dwelling unit or rooming unit is, of course, binding upon him.

#### Section XV

Civil penalties are proposed in lieu of the more common criminal sanctions. This gives implimentation to the recommendations of Judah Grabetz and Frank P. Grad in "Housing Code Enforcement — Sanctions and Remedies," 66 *Columbia Law Review* 1254, 1966. The inadequacy and historically demonstrable failure of the criminal sanction portrayed in that article, in the plan for a shift toward a cumulative civil penalty are reflected in this ordinance.

#### Section XVI

##### 1. Repair

Repair is designed to replace the more common remedies of placarding, vacation of the premises and receivership. Its advantages lie in the fact that tenants in reparable multiple dwellings need not be forced to look for other lodgings, and that the jurisdiction need not involve itself as a landlord, with buildings to manage, awaiting repairs. The cost of repairs is met both by a potential civil action, and through the mechanism of the revolving fund, discussed infra.

Authority for a city under the police power to require private action for repair and to recover the cost of work done if the individual required to make the improvement does not act has long been upheld, although it has not been invoked frequently in recent cases. See *City of Independence v. Purdy*, 46 Iowa 202 (1877), where the city filled in defendant's stagnant pond and was allowed to recover the cost in a private action. The authorization for civil recovery of such costs eliminates the long delay which is attendant when liens are imposed on property, since these are mere clouds on title, to be paid at that indefinite time in the future when the property is transferred.

## 2. Demolition

It is well-settled law that municipal ordinances may provide for the condemnation of buildings failing to comply with their provisions. See *City of Nashville v. Weakley*, 170 Tenn. 278, 95 S.W. 2d 37 (1936), in which it was held, among other things, that a property owner has a duty to keep his property in such a state of repair so as not to endanger the public, and that when he fails in such duty, the municipality may perform demolition for him, at his expense.

The provision prohibiting the owner from permitting reoccupation of a voluntarily vacated dwelling, dwelling unit or rooming unit in a structure scheduled for demolition represents an attempt to protect occupants from dangerous conditions, but does not apply the traditional and harsher condition that the structure be vacated forthwith at the time at which the demolition order is issued. This is an attempt to balance the need of the tenant to find other accommodations with the need to protect the public health, safety and welfare.

The provision requiring that the excavation left when an unfit structure has been removed, be filled in is obvious, but often neglected means of protecting the public health and safety.

## SECTION XIX

This provision represents an exercise of the public power which attempts to grant a right to be heard to affected individuals.



