



# PORT ST. LUCIE CITY COUNCIL AGENDA ITEM SUMMARY

Meeting Date: October 23, 2017

Agenda Item #: 10G  
10-23-17

**PLACEMENT:** First Reading of Ordinances

**ACTION REQUESTED:** Motion / Vote

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## **APPROVE ORDINANCE - REGULATING THE MAXIMUM OCCUPANCY OF RESIDENTIAL UNITS**

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**SUBMITTED BY:** Patricia A. Tobin, AICP, Director of Planning and Zoning

**STRATEGIC PLAN LINK:** The City's Mission to plan for smart and balanced growth.

**EXECUTIVE SUMMARY (General Business):** This ordinance will regulate the number of people permitted in any residential unit by the number of bedrooms and square footage similar to the Standard Housing Code (attached) and the Uniform Housing Code to ensure sustainable and dispersed growth.

**PRESENTATION INFORMATION:** Greg Hyden with Nason Yeager will make a presentation at second reading.

**STAFF RECOMMENDATION:** Move that the Council approve the ordinance as amended by the Planning and Zoning Board and presented in this packet.

**ALTERNATE RECOMMENDATIONS:**

1. Move that the Council amend the recommendation and approve the ordinance.
2. Move that the Council not approve the ordinance and provide staff direction.

**BACKGROUND:** See the attached memorandum from Gregory Hyden with Nason Yeager dated August 25, 2017 and revised on September 6, 2017, regarding the need to prevent overcrowding and provide needed relief to the City's infrastructure in a responsible and non-discriminatory manner. The Planning and Zoning Board recommended approval of the attached ordinance at their meeting on October 3, 2017 with a vote of 5 to 1.

**ISSUES/ANALYSIS:** N/A

**FINANCIAL INFORMATION:** N/A

**SPECIAL CONSIDERATION:** N/A

**LOCATION OF PROJECT:** N/A

**ATTACHMENTS:**

Ordinance

Memo from Greg Hyden, Nason Yeager

**NOTE:** All of the listed items in the "Attachment" section above are in the custody of the City Clerk. Any item(s) not provided in City Council packets are available upon request from the City Clerk.

**LEGAL SUFFICIENCY REVIEW:**

Reviewed by O. Reginald Osenton, City Attorney. Approved as to Legal form and sufficiency by O. Reginald Osenton, City Attorney. 

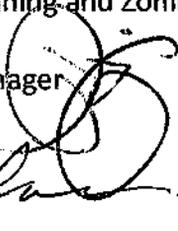
**ROUTING:**

1. Department requesting Agenda Item: O. Reginald Osenton, City Attorney 

**APPROVAL(S):**

2. Department preparing Agenda Item: Patricia A. Tobin, Planning and Zoning Director 

3. Secondary Department Approval:

4. City Manager's Office: Patricia Roebling, Assistant City Manager 

5. City Manager's Office:

6. City Manager: Russ Blackburn 

**ORDINANCE NO. 17-76**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE, FLORIDA, AT CHAPTER 158 "ZONING CODE" BY SPECIFICALLY AMENDING ARTICLE V, SPECIFICALLY CREATING SECTION 158.082, FORMERLY RESERVED, TO NOW BE KNOWN AS "MAXIMUM OCCUPANCY FOR ALL RESIDENTIAL DISTRICTS"; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Port St. Lucie ("City") has experienced explosive population growth in recent years. In 1995, the City's population was just 73,208. Just 15 years later the City's population had more than doubled to 165,395. Projections indicate that the City's population will grow to 225,000 by 2030; and,

**WHEREAS**, as a result, many of the City's roads are overburdened and the City is tasked with keeping up with the maintenance and expansion of its infrastructure. By way of example, the City's Public Works Department will undertake 28.2 miles of road improvement and paving just in the next two fiscal years. Similarly, there is a need for 19.3 miles of sidewalk paving, which is more than double the amount the City has recently completed and more than the 17 miles presently in progress; and,

**WHEREAS**, the City Council of the City of Port St. Lucie, Florida, has determined that the Code of Ordinances of the City of Port St. Lucie Florida, at Chapter 158, should be amended to include a maximum occupancy ordinance which will help foster a sustainable growth plan in existing neighborhoods and assist the City in being able to better plan for growth in new areas; and,

**WHEREAS**, consistent with 42 U.S.C. §3607(b)(1), municipalities are allowed to adopt reasonable ordinances that regulate the maximum number of occupants in a dwelling; and,

**WHEREAS**, the House Report in 1988 noted that "[a] number of jurisdictions limit the number of occupants per unit based on a minimum number of square feet in the unit or in the sleeping areas of the unit. Reasonable limitations by governments would be allowed to continue, as long as they were applied to all occupants"; and,

**WHEREAS**, the City Council finds that this Ordinance promotes the public health, safety and welfare of the citizens and inhabitants of the City by preventing overcrowding, pursuant to Article VIII, Section 1(g), Florida Constitution and Section 125.01, Florida Statutes.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, HEREBY ORDAINS AS FOLLOWS:**

**Section 1. Ratification of Recitals.** The City Council of the City of Port St. Lucie, Florida, hereby adopts and ratifies those matters as set forth in the foregoing recitals.

ORDINANCE 17-76

**Section 2.** That Section 158.082 of the Code of Ordinances of the City of Port St. Lucie, Florida, is hereby amended to read as follows:

~~Sec. 158.082-158.099. Reserved~~

Sec. 158.082 - Maximum Occupancy For All Residential Districts

(A) All residential districts in the City (RE, RS-1, RS-2, RS-3, RM-5, RM-8, RM-11, RM-15, RMH, GU, LMD, PUD, and MPUD) shall have maximum occupancy standards consistent with this section.

(B) Each dwelling unit, regardless of whether it is a single-family dwelling or a multi-family dwelling shall contain a minimum gross floor area of three hundred square (300) feet of floor space for the first occupant and one hundred and fifty (150) square feet of floor space for each additional occupant thereafter. In no case shall any dwelling unit contain less than the minimum number of square feet of floor space of habitable area required by other provisions of this code.

(C) In every dwelling unit, regardless of whether it is a single-family dwelling or a multi-family dwelling, a lawfully established bedroom occupied by one occupant shall contain at least seventy (70) square feet of floor space and every lawfully established bedroom occupied by more than one occupant shall have at least seventy (70) square feet of floor space for the first occupant and fifty (50) square feet of floor space for each additional occupant. Kitchens, bathrooms, living rooms, and non-habitable spaces cannot be used as sleeping spaces. For purposes of this section, non-habitable spaces shall mean any room that does not meet the criteria for a lawfully established bedroom.

(D) Nothing herein shall apply to guests whose occupancy is not to last longer than fourteen (14) calendar days.

(E) For purposes of this section, an "occupant" shall mean any person age 12 or older. As a result, persons under the age of twelve shall only require half of the square footage required herein above by one occupant.

Sec. 158.083 - 158.099 Reserved

**Section 3. Conflict.** If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Code of Ordinances of the City of Port St. Lucie, Florida, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

**Section 4. Severability.** The provisions of this Ordinance are intended to be severable. If any section, subsection, clause or provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect and this Ordinance shall nevertheless stand and be construed as if the illegal or invalid part or portion had not been included herein.

ORDINANCE 17-76

**Section 5. Codification.** It is the intention of the City Council of the City of Port St. Lucie, and it is hereby ordained, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Port St. Lucie, Florida, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and the word "ordinance" may be changed to "Section" or other appropriate word as may be necessary.

**Section 6. Effective Date.** This Ordinance shall become effective upon final adoption on second reading.

**PASSED AND APPROVED** by the City Council of the City of Port St. Lucie, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

ATTEST:

By: \_\_\_\_\_  
Gregory J. Oravec, Mayor

\_\_\_\_\_  
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
O. Reginald Osenton, City Attorney

September 6, 2017: Proposed Ordinance revised to comport with the revisions requested by the Planning & Zoning Board during the September 5, 2017 Regular Planning & Zoning Board Meeting. Specifically, Section 158.082(F) was created to define occupant by age and to revise the required square footage for minor children.



## MEMORANDUM

**TO:** Reginald Osenton, City Attorney

**FROM:** Gregory Hyden, Esq.  
John Bizanes, Esq.

**DATE:** August 25, 2017

**SUBJECT:** Maximum Occupancy Ordinance

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### BACKGROUND

The City of Port St. Lucie (“City”) has experienced tremendous population growth in recent years, and current trends evidence that this growth will continue. In 1995, the City’s population was 73,208.<sup>1</sup> Just 15 years later the City’s population had more than doubled to 165,395.<sup>2</sup> It is now larger than Fort Lauderdale. Current projections indicate that the City’s population will grow to 225,000 by 2030. As a result, many of the City’s roads and public utilities are increasingly overburdened, and the City is struggling to keep up with the maintenance and expansion of its infrastructure in existing neighborhoods.

The City’s Public Works Department (“Public Works”) stated that it will undertake 28.2 miles of road improvement and paving just in the next two fiscal years.<sup>3</sup> Similarly, Public Works illustrated the need for 19.3 miles of sidewalk paving, which is more than double the amount the City has recently completed (8.9 miles), and more than the 17 miles presently in progress.<sup>4</sup> The

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<sup>1</sup> 1995 United States Census.

<sup>2</sup> 2010 United States Census.

<sup>3</sup> Public Works Department, *Public Works Update*, City Council Winter Retreat (2017).

<sup>4</sup> *Id.*

necessity of the Crosstown Bridge, a third east-west corridor crossing the St. Lucie River, is further indication that the present transportation infrastructure in existing and older neighborhoods in the City is overburdened. The Florida Department of Transportation (FDOT) recently gave the two existing bridges that provide ingress and egress to and from the city an “F” rating for functionality during rush hour. Instituting a maximum occupancy ordinance would help foster a sustainable growth plan in existing neighborhoods and assist the City in being able to better plan for growth in new areas.

### LEGAL ANALYSIS

Because there has been litigation around maximum occupancy ordinances, it is important to provide the legal framework that underpins these types of ordinances. The federal Fair Housing Act (FHA) prohibits discrimination in the occupancy of residences based on race, color, religion, national origin, sex, familial status, and disability.<sup>5</sup> However, Congress provided specific exemptions from the FHA, which allow municipalities to adopt “reasonable” ordinances that regulate the maximum number of occupants in a dwelling. Specifically, 42 U.S.C. §3607(b)(1), states that, “[n]othing in this subchapter limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.”<sup>6</sup> The House Report in 1988 noted that “[a] number of jurisdictions limit the number of occupants per unit based on a minimum number of square feet in the unit or in the sleeping areas of the unit. Reasonable limitations by governments would be allowed to continue, as long as they were applied to all occupants.”<sup>7</sup> This is what the City is intending to do, i.e. limit the number of persons who may reside in a single dwelling based upon square footage, regardless of their filial relationship to ensure sustainable growth patterns in the City.

Numerous courts have made determinations regarding the “reasonableness” of maximum occupancy ordinances, and ultimately determined ordinances that govern who can occupy a residence are scrutinized more heavily than ordinances that govern how many can occupy a residence. The differentiation was explained at length in the seminal case of *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725 (1995). The Court explained that “[m]aximum occupancy

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<sup>5</sup> 42 U.S.C., § 3601.

<sup>6</sup> 42 U.S.C., §3607(b)(1).

<sup>7</sup> House Report at 31, *reprinted in* 1988 U.S.C.C.A.N. at 2192 (emphasis added).

restrictions...cap the number of occupants per dwelling, typically in relation to available floor space or the number and type of rooms...These restrictions ordinarily apply uniformly to all residents of all dwelling units. Their purpose is to protect health and safety by preventing dwelling overcrowding.”<sup>8</sup> This language is significant because it mirrors the City’s intent behind enacting its maximum occupancy ordinance. Ultimately, the Court held that, “...rules that cap the total number of occupants in order to prevent overcrowding of a dwelling ‘plainly and unmistakably’ ... fall within § 3607(b)(1)'s absolute exemption from the FHA's governance.”<sup>9</sup> This is important because it provided the basis for a series of other federal decisions that found various other city maximum occupancy ordinances, which limited occupancy on a square footage basis, to be lawful and within the § 3607(b)(1) exemption from the FHA.

In *Fair Housing Advocates Ass’n, Inc. v. City of Richmond Heights, et al.*, 209 F. 3d 626 (6th Cir. 2000), the court was asked to consider whether a collective of cities were in violation of the FHA for enacting maximum occupancy ordinances that capped the number of residents based on the square footage of the home.<sup>10</sup> The Sixth Circuit upheld multiple maximum occupancy ordinances on the basis that the cities, “presented convincing evidence that the ordinances were enacted ‘to protect health and safety by preventing dwelling overcrowding,’ not to impermissibly limit the family composition of dwellings.”<sup>11</sup> Additionally, the Court stated that a city’s interest in preventing overcrowding can be as limited in scope as preventing overcrowding in each dwelling. “To fall within exemption from Fair Housing Act’s (FHA) provision barring discrimination based on familial status, purpose of occupancy ordinance does not have to be to prevent overcrowding of a particular apartment complex, an area of the city, or the entire city, but simply to prevent overcrowding of each dwelling.”<sup>12</sup> Similarly, the City has an interest in preventing not only the overcrowding of individual dwellings, but alleviating pressure on the city’s overall infrastructure.

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<sup>8</sup> *Id.* See, e.g., International Conference of Building Officials, Uniform Housing Code § 503(b) (1988); Building Officials and Code Administrators International, Inc., BOCA National Property Maintenance Code §§ PM-405.3, PM-405.5 (1993); Southern Building Code Congress, International, Inc., Standard Housing Code §§ 306.1, 306.2 (1991); E. Mood, APHA-CDC Recommended Minimum Housing Standards § 9.02, p. 37 (1986).

<sup>9</sup> *Id.*

<sup>10</sup> *Fair Housing Advocates Ass’n, Inc. v. City of Richmond Heights, et al.*, 209 F.3d 626 (6th Cir. 2000).

<sup>11</sup> *Fair Housing* at 636, citing *Edmonds* at 733.

<sup>12</sup> *Id.*, see Civil Rights Act of 1968, §§ 804(a), 807(b)(1), as amended, 42 U.S.C.A. § 3604(a), 3607(b)(1).

City of Port St. Lucie  
Memorandum Regarding Maximum Occupancy Ordinances  
August 25, 2017

Generally, occupancy limitations based on a square footage basis are “reasonable,” so long as they are applicable to all residents, independent of familial status. The City’s proposed ordinances seeks to regulate occupancy purely on the basis of square footage, and is applicable to all residents. The City’s proposed ordinance is significantly less restrictive than a number of the examples that courts have upheld as reasonable. The proposed ordinance will prevent overcrowding and much needed relief to the City’s infrastructure, all in a responsible and non-discriminatory manner.

1994

*NASCON.ORG*

**STANDARD  
HOUSING  
CODE**



# **STANDARD HOUSING CODE 1994 EDITION**



**THIRD PRINTING**

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## PREFACE

These pages contain revisions made to the 1991 Standard Housing Code during the 1991 code change cycle. They were processed through two public hearings and ratified by a final ballot of the active membership of the Southern Building Code Congress after the 1991 Annual Conference. The revisions are presented as page replacements in the 1991 Standard Codes™.

The purpose of this code is to provide the basic minimum housing standards deemed essential for safe and healthful living. The code provides the minimum requirements necessary to maintain any residential occupancy in a safe and sanitary condition.

The Standard Housing Code is one of the ten codes published and maintained by the Southern Building Code Congress International and is a minimum housing code relating principally to the use, occupancy and maintenance of existing residential buildings and shall not be construed as being a building construction code.

The Standard Housing Code contains certain terminologies or references, such as "properly installed," "properly connected," "properly constructed" and other similar terms. It is intended that these references relate to the Standard Building, Plumbing, Gas, Mechanical and other codes published by the Southern Building Code Congress International or any other codes officially adopted and administered by the governing body of this code.

Vertical bars in the margin indicate changes made since the 1988 edition.



Stars in the margin indicate deletions from the 1988 edition.



## METRIC CONVERSIONS

GET	MULTIPLY	BY	TO
Length	inches	25.4	mm
	ft	0.3048	m
Area	sq in	645.16	mm <sup>2</sup>
	sq ft	0.0929	m <sup>2</sup>
Volume	cu in	0.01639	L
	cu ft	28.3169	L
	cu ft	0.02832	m <sup>3</sup>
	gal	3.785	L
	gal	0.003785	m <sup>3</sup>
Mass	lb	0.4536	kg
Mass/unit length	plf (lb/ft)	1.4882	kg/m
Mass/unit area	psf (lb/sq ft)	4.882	kg/m <sup>2</sup>
Mass density	pcf (lb/cu ft)	16.02	kg/m <sup>3</sup>
Force	lb	4.4482	N
Force/unit length	plf (lb/ft)	14.5939	N/m
Pressure, stress, modulus of elasticity	psi	6.895	kPa
	psf (lb/sq ft)	47.88	Pa
Second moment of area	in <sup>4</sup>	416,231	mm <sup>4</sup>
Section modulus	in <sup>3</sup>	16,387.064	mm <sup>3</sup>
Temperature	°F-32	5/9	°C
	°F + 459.67	5/9	K
Energy, work, quantity of heat	kWh	3.6	MJ
	Btu	1055	J
	ft • lb (force)	1.3558	J
Power	ton (refrig)	3.517	kW
	Btu/s	1.0543	kW
	hp (electric)	745.7	W
	Btu/h	0.2931	W
Thermal conductance (U value)	Btu/ft <sup>2</sup> • h • °F	5.6783	W/m <sup>2</sup> • K
Thermal resistance (R value)	ft <sup>2</sup> • h • °F/Btu	0.1761	m <sup>2</sup> • K/W
Flow	gpm	0.0631	L/s
	cfm	0.4719	L/s
Illuminance	footcandle (lm/sq ft)	10.76	lx (lux)
Velocity (speed)	mph	0.447	m/s
Plane angle	°(angle)	0.01745	rad

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# CHAPTER 1

## ADMINISTRATION

### 101 TITLE AND SCOPE

#### 101.1 Title

Provisions in the following chapters and sections shall constitute and be known and may be cited as "The Standard Housing Code" hereinafter referred to as "this code."

#### 101.2 Code Remedial

This code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use or occupancy of residential buildings and accessory structures.

#### 101.3 Scope

**101.3.1** The provisions of this code shall apply to all buildings or portions thereof, all accessory structures or portions thereof located on residential property, used or unused, designed or intended to be used for human habitation or the storage of materials associated with human habitation.

**101.3.2** This code establishes minimum standards for occupancy, and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this code.

**101.3.3** Buildings or structures moved into or within the jurisdiction shall comply with the requirements in the Standard Building Code<sup>®</sup> for new buildings.

#### 101.4 Existing Buildings

**101.4.1** Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of this code provided that the alteration, repair or rehabilitation work conforms to the requirements of this code for new construction. The housing official shall determine, subject to appeal to the Board of Adjustments and Appeals, the extent, if any, to which the existing building shall be made to conform to the requirements of this code for new construction.

**101.4.2** Alterations, repairs or rehabilitation work shall not cause an existing building to become unsafe as defined in 103.2.

**101.4.3** If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of this code for the new occupancy classification as established by the housing official.

**101.4.4** Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed, but not more than 25% of the roof covering of a building shall be replaced in any period of 12 months unless the entire roof covering is made to conform with the requirements of this code for new buildings.

### **101.5 Special Historic Buildings And Districts**

The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the housing official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts. The applicant must submit complete architectural and engineering plans and specifications bearing the seal of a registered professional engineer or architect.

### **101.6 Maintenance**

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code in a building when erected, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises.

### **101.7 Application Of Zoning Ordinance**

Nothing in this code shall be construed to cancel, modify or set aside any provision of the zoning ordinance of the authority having jurisdiction.

## **102 ORGANIZATION**

### **102.1 Enforcement Officer**

There is hereby established by the applicable governing body provisions for the enforcement of this code by the housing official.

### **102.2 Restrictions On Employees**

An officer or employee connected with the department, except one whose

only connection is as a member of the board, established by this act, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the department.

### **102.3 Records**

The housing official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.

## **103 POWERS AND DUTIES OF HOUSING OFFICIAL**

### **103.1 Right Of Entry**

The housing official shall enforce the provisions of this code, and he, or his duly authorized representative upon presentation of proper identification to the owner, agent, or tenant in charge of such property, may enter any building, structure, dwelling, apartment, apartment house, or premises, during all reasonable hours, except in cases of emergency where extreme hazards are known to exist which may involve the potential loss of life or severe property damage, in which case the above limitations shall not apply.

### **103.2 Unsafe Residential Buildings**

**103.2.1** All residential buildings or structures used as such which are unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are considered unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with 103.2.2, 103.2.3 and 103.2.4.

**103.2.2** Whenever the housing official determines that there are reasonable grounds to believe that there has been a violation of any provision of this code or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor and such alleged violations shall constitute a nuisance. Such notice shall:

1. Be put in writing;
2. Include a statement of the reasons why it is being used;
3. Allow 45 days to correct major violations and 60 days to correct minor violations with a maximum time limit of 120 days for either, subject to approval of the housing official; and

4. State that, if such repairs, reconstruction, alterations, removal or demolition are not voluntarily completed within the stated time as set forth in the notice, the housing official shall institute such legal proceedings charging the person or persons, firm, corporation or agent with a violation of this code.

**103.2.3 Service of notice shall be as follows:**

1. By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon; or
3. By posting and keeping posted for 24 hours a copy of the notice in a conspicuous place on the premises to be repaired.

**103.2.4** When a residential building is to be demolished, it shall be done so in accordance with the provisions of the Standard Unsafe Building Abatement Code.

**103.3 Requirements Not Covered By Code**

Any requirement, not specifically covered by this code, found necessary for the safety, health, and general welfare of the occupants of any dwelling, shall be determined by the housing official subject to appeal to the Housing Board of Adjustments and Appeals.

**103.4 Liability**

Any officer or employee, or member of the Housing Board of Adjustments and Appeals, charged with the enforcement of this code, in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of this code shall be defended by the Department of Law until the final termination of the proceedings.

**103.5 Reports**

The housing official shall annually submit a report to the chief administrator covering the work of the department during the preceding year. He shall incorporate in said report a summary of the decisions of the Housing Board of Adjustments and Appeals during said year.

**103.6 Letter Of Compliance**

A letter indicating compliance with the provisions of this code may be issued by the housing official.

## 104 INSPECTIONS

The housing official shall make or cause to be made inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants of such buildings and of the general public. For the purpose of making such inspections, the housing official, or his agent, is hereby authorized to enter, examine, and survey at all reasonable times all residential buildings and premises. The owner or occupant of every residential building or the person in charge thereof shall give the housing official free access to such residential building and its premises, at all reasonable times for the purpose of such inspection, examination, and survey.

## 105 HARDSHIPS

Where the literal application of the requirements of this code would appear to cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of this code or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal the decision of the housing official to the Housing Board of Adjustments and Appeals, as set forth in 107.

## 106 HOUSING BOARD OF ADJUSTMENTS AND APPEALS

### 106.1 Appointment

**106.1.1** There is hereby created by the applicable governing body a board to be known as the Housing Board of Adjustments and Appeals, which shall consist of not less than three members appointed by the governing body. The members shall be residents of the governed area. Members of the board shall be appointed for 3 year terms, except that on the initial appointment, one shall be appointed for 1 year, one for 2 years, and one for 3 years. Any one or more members of said board shall be subject to removal or replacement by the appointing authority at any time for cause of stated charges after a public hearing before the appointing authority, and a vacancy on said board shall be filled by the appointing authority for the unexpired term of such vacancy. The members of said board shall serve without compensation.

**106.1.2** As soon as practical after their appointment, the members of the Housing Board of Adjustments and Appeals shall meet and organize by electing a chairman, vice-chairman, and secretary. Thereafter officers of the board shall be elected by the members at the first annual meeting of the board.

## **106.2 Meetings**

The board shall meet at regular intervals to be determined by the chairman but in any event the board shall meet within 10 days after notice of appeal has been received. Reasonable notice of the place, time and date of such meetings shall be given all the members of the board and all interested parties in each case to be heard by the board.

## **106.3 Records**

All minutes of the board meetings shall be public records and the secretary of the board shall keep all records and perform such additional duties as the board may deem proper.

## **106.4 Duties**

**106.4.1** The duties of the Housing Board of Adjustments and Appeals shall be:

1. To consider and determine appeals whenever it is claimed that the true intent and meaning of this code or any of its regulations have been misconstrued or wrongly interpreted.
2. To permit, in appropriate cases where the application of the requirement of this code in the allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship on an owner, one or more extensions of time, not to exceed 120 days each, from the date of such decision of the board. Applications for additional extensions of time shall be heard by the board. Such requests for additional extensions of time shall be filed with the housing official not less than 30 days prior to the expiration of the current extension.

**106.4.2** An appeal should not be considered where an appeal case has been previously decided involving the same premises.

## **106.5 Procedure**

The Housing Board of Adjustments and Appeals shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of this code and the laws of the state.

## **106.6 Decisions**

All decisions of the Housing Board of Adjustments and Appeals to vary the application of any provision of this code or to modify an order of the housing official shall specify in what manner such variance or modification is made, the condition upon which it is made, and the reasons therefor. Every decision shall be in writing and shall indicate the vote upon the decision. A copy of all decisions shall be promptly filed in the office of the housing official and shall be open to public inspection. The secretary shall notify the appellant in writing of the final action of the board.

## **107 APPEALS**

Any person receiving written notice from the housing official of deficiencies in his property under this code may within 30 days following the date of such notice enter an appeal in writing to the Housing Board of Adjustments and Appeals. Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the variance or modification requested, the reasons therefor, and the hardship or conditions upon which the appeal is made.

## **108 VIOLATIONS AND PENALTIES**

Any person, firm, corporation or agent, who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of this code shall be prosecuted within the limits provided by state or local laws. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, or continued and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

## **109 VALIDITY**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

## **110 PERMITS**

Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change a residential building or structure or to cause any such work to be done, shall first make application to the housing official and obtain the required permit therefor. Ordinary minor repairs may be made with the approval of the housing official without a permit, provided that such repairs shall not violate any of the provisions of this code.



# CHAPTER 2

## DEFINITIONS

### 201 GENERAL

#### 201.1 Tense, Gender And Number

For the purpose of this code, certain abbreviations, terms, phrases, words, and their derivatives, shall be construed as set forth in this chapter. Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and plural number includes the singular.

#### 201.2 Special Meaning And Words Not Defined

**201.2.1** Words not defined herein shall have the meanings stated in the Standard Building Code, Standard Mechanical Code, Standard Plumbing Code, Standard Gas Code or Standard Fire Prevention Code. Words not defined in the Standard Codes shall have the meanings in Webster's Ninth New Collegiate Dictionary, as revised.

**201.2.2** Whenever the words "dwelling," "dwelling units," "rooming house," "rooming units," and "premises" are used in this code, they shall be construed as though they were followed by the words, "or any part thereof."

### 202 DEFINITIONS



**ADDITION**—an extension or increase in floor area or height of a building or structure.

**ALTER OR ALTERATION**—any change or modification in construction or occupancy.

**APARTMENT**—a dwelling unit as defined in this code.

**APARTMENT HOUSE**—any building or portion thereof used as a multiple dwelling for the purpose of providing three or more separate dwelling units which may share means of egress and other essential facilities.

**APPLICABLE GOVERNING BODY**—a city, county, state, state agency or other political government subdivision or entity authorized to administer and enforce the provisions of this code, as adopted or amended.

**APPROVED**—approved by the housing official or other authority having jurisdiction.

**BASEMENT**—that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance

from grade to ceiling, provided, however, that the distance from grade to ceiling shall be at least 4 ft 6 inches (1372 mm).

**BUILDING**—any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind which has enclosing walls for 50% of its perimeter. The term “building” shall be construed as if followed by the words “or part thereof.” (For the purpose of this code each portion of a building separated from other portions by a fire wall shall be considered as a separate building.)

**CELLAR**—that portion of a building, the ceiling of which is entirely below grade or less than 4 ft 6 inches (1372 mm) above grade.

**DORMITORY**—a space in a unit where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room, or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges.

**DWELLING**—when used in this code without other qualifications, means a building occupied exclusively for residential purposes by not more than two families.

**DWELLING UNIT**—a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EXTERMINATION**—the control and extermination 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.

**FAMILY**—one or more persons living together, whether related by blood, marriage or adoption, and having common housekeeping facilities.

**FLOOR AREA**—the total area of habitable space in a building or structure.

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

**HABITABLE ROOM**—a space in a building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

**HOTEL**—any building containing six or more guests rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

**HOUSING OFFICIAL**—the officer, or his duly authorized representative, charged with the administration and enforcement of this code.

**INFESTATION**—the presence within or around a dwelling, of any insects, rodents, or other pests.

**INOPERABLE MOTOR VEHICLE**—one which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**MAJOR VIOLATION**—A defect that exists on a property or structure that is immediately dangerous to the health, safety or welfare of the occupants, passersby or persons in contiguous areas; a defect that exists that seriously undermines that component or structural member which renders that component or member unsafe to use or exist in its present condition.

**MINOR VIOLATION**—A defect that exists on a property or structure that in its present state of disrepair, deterioration or absence, does not constitute an immediate hazard.

**MULTIPLE DWELLING**—any building, or portion thereof, which is occupied as the home or residence of more than two families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

**NUISANCE**—the following shall be defined as nuisances:

1. Any public nuisance known at common law or in equity jurisprudence.
2. Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
4. Overcrowding a room with occupants.
5. Insufficient ventilation or illumination.
6. Inadequate or unsanitary sewage or plumbing facilities.
7. Uncleanliness, as determined by the health officer.
8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

**OPENABLE AREA**—that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR**—any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

**OWNER**—the holder of the title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. It shall also mean any person who, alone or jointly or severally with others:

1. shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
2. shall have charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, or assignee of rents, lessee, or other person, firm, or corporation in control of a building; or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this code, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner. It is his responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property which apply to the owner.

**PERSON**—any individual, firm, corporation, association or partnership.

**PLUMBING**—the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building, structure, or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of stormwater, liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

**PREMISES**—a lot, plot or parcel of land including the buildings or structures thereon.

**PUBLIC AREA**—an unoccupied open space adjoining a building and on the same property, that is permanently maintained accessible to the fire department and free of all incumbrances that might interfere with its use by the fire department.

**REPAIR**—the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations, or that would be in violation of a provision of law or ordinance. The term “repair” or “repairs” shall not apply to any change of construction.

**REQUIRED**—required by some provision of this code.

**RESIDENTIAL BUILDINGS**—buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories. Such buildings include, among others, dwellings, multiple dwellings, and rooming houses.

**ROOMING HOUSE**—any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

**ROOMING UNIT**—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 or eating purposes.

**RUBBISH**—combustible and noncombustible waste materials, except garbage, including the residue from the burning of wood, coal, coke or other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass crockery, and dust.

**STAIRWAY**—one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

**STORY**—that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

**STRUCTURE**—that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term “structure” shall be construed as if followed by the words “or part thereof.”

**SUPPLIED**—paid for, furnished, or provided by or under control of, the owner or operator.

**TEMPORARY HOUSING**—any tent, trailer, or 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 utilities system on the same premises for more than 30 consecutive days.

**VALUATION OR VALUE**—as applied to a building, the estimated cost to replace the building in kind.

**VENTILATION**—the process of supplying and removing air by natural or mechanical means to or from any space.

**YARD**—an unoccupied open space other than a court.



# CHAPTER 3

## MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

### 301 GENERAL

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements.

### 302 FACILITIES REQUIRED

#### **302.1 Sanitary Facilities**

Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition free from defects, leaks, and obstructions.

#### **302.2 Location Of Sanitary Facilities**

All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user and such room shall have a minimum floor space of 30 sq ft (2.8 m<sup>2</sup>) with no dimension less than 4 ft (1219 mm). Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed area.

#### **302.3 Hot And Cold Water Supply**

Every dwelling unit shall have an adequate supply of both cold and hot water connected to the kitchen sink, lavatory, and tub or shower. All water shall be supplied through an approved distribution system connected to a potable water supply.

#### **302.4 Water Heating Facilities**

Every dwelling unit shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F (49°C). Such water heating facilities shall be capable of meeting the requirements of 302.4 when the dwelling or dwelling unit heating facilities required under

the provisions of this code are not in operation. Apartment houses may use a centralized water heating facility capable of heating an adequate amount of water as required by the Standard Plumbing Code<sup>®</sup> to not less than 120°F (49°C).

### **302.5 Heating Facilities**

**302.5.1** Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working conditions, and are capable of safely and adequately heating all habitable rooms and bathrooms.

**302.5.2** Where a central heating system is not provided, each dwelling unit shall be provided with facilities whereby heating appliances may be connected.

**302.5.3** Gas heaters listed for unvented use shall be permitted provided the total input rating of the heaters is less than 30 Btu per hour per cu ft (314 W/m<sup>3</sup>) of room content. Such heaters shall be prohibited in bedrooms.

**302.5.4** The use of any liquid fueled unvented heating appliance shall be permitted in one and two family residences only, providing such appliance is tested and listed by an approved laboratory according to requirements of UL 647 (1984) and providing the fuel is stored in containers meeting ASTM ES-8 for kerosene containers.

### **302.6 Kitchen Facilities**

Every dwelling unit shall contain a kitchen equipped with the following minimum facilities:

1. Food preparation surfaces impervious to water and free of defects which could trap food or liquid.
2. Shelving, cabinets or drawers for the storage of food and cooking and eating utensils, all of which shall be maintained in good repair.
3. Freestanding or permanently installed cookstove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited.
4. Mechanical refrigeration equipment for the storage of perishable foodstuffs.

EXCEPTION: Nothing herein shall preclude a written agreement between an owner and tenant that the tenant will furnish mechanical refrigeration equipment and/or a cookstove as required in this section. It shall be an affirmative defense available to an owner charged with a violation of this section if such an agreement exists.

### **302.7 Garbage Disposal Facilities**

Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, of a type and location approved by the applicable governing body.

### **302.8 Fire Protection**

A person shall not occupy as owner-occupant nor shall let to another for occupancy, any building or structure which does not comply with the applicable provisions of the fire prevention code of the applicable governing body.

### **302.9 Smoke Detector Systems**

Every dwelling unit shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217 (1989), Single and Multiple Station Smoke Detectors.

## **303 MINIMUM REQUIREMENTS FOR LIGHT AND VENTILATION**

### **303.1 Windows**

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 8% of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than 3 ft (914 mm) from the window and extend to a level above that of the ceiling of the room, such a 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. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

### **303.2 Ventilation**

**303.2.1** Every habitable room shall have at least one window or skylight which can be easily opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall equal to at least 45% of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved, equivalent ventilation.

**303.2.2** Year round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window type airconditioning units are not included in this exception.

### **303.3 Bathroom**

Every bathroom shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilating system.

### **303.4 Electric Lights And Outlets**

Where there is electric service available to the building structure, every habitable room or space shall contain at least two separate and remote receptacle outlets. Bedrooms shall have, in addition, at least one wall switch controlled lighting outlet. In kitchens, two separate and remote receptacle outlets shall be provided (receptacles rendered inaccessible by appliances fastened in place or by appliances occupying dedicated space shall not be considered as these required outlets) and a wall or ceiling lighting outlet controlled by a wall switch shall be provided. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one ceiling-mounted or wall-mounted lighting outlet. In bathrooms, the lighting outlet shall be controlled by a wall switch. In addition to the lighting outlet in every bathroom and laundry room, there shall be provided at least one receptacle outlet. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

### **303.5 Light In Public Halls And Stairways**

Every common hall and inside stairway in every building, other than one-family dwellings, shall be adequately lighted at all times with an illumination of at least 1 foot candle intensity (10.76 lux) at the floor in the darkest portion of the normally traveled stairs and passageways.

## **304 MINIMUM REQUIREMENTS FOR ELECTRICAL SYSTEMS**

Every electrical outlet and fixture, and all electrical wiring and equipment shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the electrical code of the authority having jurisdiction.

## **305 GENERAL REQUIREMENTS FOR THE EXTERIOR AND INTERIOR OF STRUCTURES**

### **305.1 Foundation**

The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

### **305.2 Exterior Walls**

Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain, or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding material shall be kept in repair.

### **305.3 Roofs**

**305.3.1** Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

**305.3.2** All portions, additions or sections of a roof including, but not limited to, the fascia, eave, soffit, sheathing, rafter tail, barge rafter, vent screening, gutter, downspout, roof jack, lead or metal flashing, shall be complete with all trim strips, moldings, brackets, braces and supports in accordance with common building practices. No item shall display signs of deterioration, abuse or improper installation that could be construed to affect the purpose of that item or cause damage to the immediate area or roof structure, that could allow dampness or admit rain to the interior of that building.

### **305.4 Means Of Egress**

Every dwelling unit shall have safe, unobstructed means of egress with minimum ceiling height of 7 ft (2134 mm) leading to a safe and open space at ground level. Stairs shall have a minimum head room of 6 ft 8 inches (2032 mm).

### **305.5 Stairs, Porches And Appurtenances**

Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

### **305.6 Protective Railings**

Protective railings shall be required on any unenclosed structure over 30 inches (762 mm) above the ground level or on any steps containing four risers or more.

### **305.7 Windows**

Every window shall be substantially weathertight, watertight and rodentproof, and shall be kept in sound working condition and good repair.

### **305.8 Windows To Be Glazed**

Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes.

### **305.9 Window Sash**

Window sash shall be properly fitted and weathertight within the window frame.

### **305.10 Windows To Be Openable**

Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware.

### **305.11 Exterior Doors**

**305.11.1** Every exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight, and rodentproof, and shall be kept in sound working condition and good repair.

**305.11.2** Every exterior door shall be provided with properly installed hardware that is maintained to insure reasonable ease of operation to open, close and secure in an open or closed position, as intended by the manufacturer of the door and the attached hardware.

### **305.12 Exterior Door Frames**

**305.12.1** Exterior door frames shall be properly maintained and shall be affixed with weatherstripping and thresholds as required to be substantially weathertight, watertight and rodent and insect resistant when the door is in a closed position.

**305.12.2** Exterior door jambs, stops, headers and moldings shall be securely attached to the structure, maintained in good condition without splitting or deterioration that would minimize the strength and security of the door in a closed position.

### **305.13 Screens**

**305.13.1** Dwelling units which do not have a central air conditioning system shall have screens on all exterior openable windows and doors used or required for ventilation. Screens on windows and doors shall be stretched and fitted and maintained, without open rips or tears.

**305.13.2** A closing device shall be installed on all screen doors.

### **305.14 Protective Treatment**

All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding shall be weather resistant and water tight. All masonry joints shall be sufficiently tuck pointed to insure water and air tightness.

### **305.15 Accessory Structures**

Garages, storage buildings and all other accessory structures shall be maintained and kept in good repair and sound structural condition.

### **305.16 Interior Floors, Walls, And Ceilings**

**305.16.1** Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

**305.16.2** Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

### **305.17 Structural Supports**

Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying normal loads.

### **305.18 Protective Railings For Interior Stairs**

Interior stairs and stairwells more than four risers high shall have handrails located in accordance with the requirements of the Standard Building Code<sup>®</sup>. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition.

### **305.19 Firestopping And Draftstopping**

**305.19.1** Firestopping shall be maintained to cut off all concealed draft openings both horizontal and vertical and to form a fire barrier between floors and between the upper floor and the roof space.

**305.19.2** Draftstopping shall be maintained to cut off all concealed draft openings in floor/ceiling assemblies and in attics.

### **305.20 Interior Doors**

Every existing interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

### **305.21 Interior Door Hardware**

Every interior door shall be provided with proper hardware, securely attached and maintained in good condition. Hasp lock assemblies are not permitted on the exterior side of the door of habitable rooms.

### **305.22 Bathroom Doors**

Privacy of bathrooms shall be afforded by doors complete with privacy hardware intended by the manufacturer for that purpose.

### **305.23 Skirting**

**305.23.1** Existing skirting shall be maintained free from broken or missing sections, pieces or cross members. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure.

**305.23.2** Replacement or new skirting shall be constructed of materials intended for exterior use and properly sized and mounted to prevent free access to the crawl space of the structure. Crawl space access grille or door and ventilation grilles shall be sized according to local code requirements.

## **306 MINIMUM DWELLING SPACE REQUIREMENTS**

### **306.1 Required Space In Dwelling Unit**

Every dwelling unit shall contain at least 150 sq ft (13.9 m<sup>2</sup>) of floor space for the first occupant thereof and at least an additional 100 sq ft (9.3 m<sup>2</sup>) of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

### **306.2 Required Space In Sleeping Rooms**

In every dwelling unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 sq ft of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 sq ft (4.6 m<sup>2</sup>) of floor space for each occupant thereof.

### **306.3 Minimum Ceiling Height**

**306.3.1** Habitable (space) rooms other than kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than 7 ft (2134 mm). Hallways, corridors, bathrooms, water closet rooms and kitchens shall have a ceiling height of not less than 7 ft (2134 m) measured to the lowest projection from the ceiling.

**306.3.2** If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the room area. No portion of the room measuring less than 5 ft (1524 mm) from the finished floor to the finished ceiling shall be included in any computation of the minimum room area.

### **306.4 Occupancy Of Dwelling Unit Below Grade**

No basement or cellar space shall be used as a habitable room or dwelling unit unless:

1. The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness, and
2. The total window area in each room is equal to at least the minimum window area size as required in 303.1, and
3. Such required minimum window area is located entirely above the grade of the ground adjoining such window area, and
4. The total of openable window area in each room is equal to at least the minimum as required under 303.2.1, except where some other device affording adequate ventilation is supplied.

## **307 SANITATION REQUIREMENTS**

### **307.1 Sanitation**

Every owner of a multiple dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or common areas of the dwelling and premises thereof.

### **307.2 Cleanliness**

Every tenant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or which is provided for his particular use.

### **307.3 Garbage Disposal**

Every tenant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.

### **307.4 Care Of Premises**

It shall be unlawful for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any inoperable motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the housing official.

### **307.5 Extermination**

Every occupant of a single dwelling building and every owner of a building containing two or more dwelling units shall be responsible for the extermination of any insects, rodents, or other pests within the building or premises.

EXCEPTION: Extermination of wood-destroying organisms shall, in all cases, be the responsibility of the building owner.

### **307.6 Use And Operation Of Supplied Plumbing Fixtures**

Every tenant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

## **308 ROOMING HOUSES**

### **308.1 Compliance Exceptions**

No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of this code except the provisions of 301, 302 and 307.

### **308.2 License Required**

No person shall operate a rooming house unless he holds a valid rooming house license.

### **308.3 Water Closet, Lavatory And Bath Facilities**

At least one flush water closet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

### **308.4 Water Heater Required**

Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

### **308.5 Minimum Floor Area For Sleeping Purposes**

Every room occupied for sleeping purposes by one person shall contain at least 70 sq ft (6.5 m<sup>2</sup>) of floor space and every room occupied for sleeping purposes by more than one person shall contain at least 50 sq ft (4.6 m<sup>2</sup>) of floor space for each occupant thereof.

### **308.6 Exit Requirements**

Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the building code of the applicable governing body.

### **308.7 Sanitary Conditions**

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house, and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

## **309 DESIGNATION OF UNFIT DWELLINGS AND LEGAL PROCEDURE FOR CONDEMNATION**

### **309.1 Dangerous Structures**

Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and declared to be a nuisance and shall be so designated and placarded by the housing official.

1. One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.
2. One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or the public.

### **309.2 Form Of Notice**

Whenever the housing official has declared a dwelling or multiple dwelling as unfit for human habitation and constituting a nuisance, he shall give notice to the owner of such declaration and placarding of the dwelling or multiple dwelling as unfit for human habitation. Such notice shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. State the time occupants must vacate the dwelling units; and
4. State that, if such repairs, reconstruction, alterations, removal, or demolition are not voluntarily completed within the stated time as set forth in

the notice, the housing official shall institute such legal proceedings charging the person or persons, firm, corporation, or agent with a violation of this code.

### **309.3 Service Of Notice**

Service of notice to vacate shall be as follows:

1. By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon; or
3. By posting and keeping posted for 24 hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.

### **309.4 Vacating Of Condemned Building**

Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the housing official, shall be vacated within 30 days after notice of such condemnation has been given by the housing official to the owner and/or occupant of the building.

### **309.5 Occupancy Of Building**

No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until approval is secured from and such placard is removed by the housing official. The housing official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

### **309.6 Removal Of Placard Or Notice**

No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in 309.5.



# APPENDIX A

## SAMPLE ORDINANCE TO ADOPT STANDARD CODES

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO ADOPT VARIOUS STANDARD CODES RELATING TO INSPECTION ACTIVITIES OF THE (CITY, COUNTY, STATE) AND ENFORCEMENT OF BUILDING PROVISIONS AS PROVIDED IN SAID CODES.

Section 1: WHEREAS, it is the desire of, (NAME OF ADOPTING AUTHORITY) to adopt, in all respects, the various Standard Codes relating to amusement devices, building, fire prevention, gas, housing, mechanical, plumbing and swimming pools and WHEREAS, the adoption of these codes is done to facilitate proper inspection activities by (CITY, COUNTY, STATE) relating to construction and to maintenance of buildings within said (CITY, COUNTY, STATE) and relating to public safety, health and general welfare;

NOW, THEREFORE, BE IT ORDAINED BY (NAME OF ADOPTING AUTHORITY) that the following codes are hereby adopted by reference as though they were copied herein fully:

- Standard Amusement Device Code - 1985 Edition
- Standard Building Code - 1994 Edition
- Standard Existing Buildings Code - 1988 Edition with 1991/1994 Revisions
- Standard Fire Prevention Code - 1994 Edition
- Standard Gas Code - 1994 Edition
- Standard Housing Code - 1994 Edition
- Standard Mechanical Code - 1994 Edition
- Standard Plumbing Code - 1994 Edition
- Standard Swimming Pool Code - 1994 Edition
- Standard Unsafe Building Abatement Code - 1985 Edition

Section 2: BE IT FURTHER ORDAINED BY (NAME OF ADOPTING AUTHORITY) that any matters in said codes which are contrary to existing Ordinances of (CITY, COUNTY, STATE) shall prevail and that Ordinance No. \_\_\_\_\_, entitled (*fill in here the complete title of the present building ordinance or ordinances in effect at the present time*) are hereby repealed and, to that extent any existing Ordinances to the contrary are hereby repealed in that respect only.

Section 3: BE IT FURTHER ORDAINED that within said codes, when reference is made to the duties of a certain official named therein, that designated official of (CITY, COUNTY, STATE) who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

Section 4: BE IT FURTHER ORDAINED that this ordinance shall take effect and be in force from and after its passage, the public welfare requiring it.  
PASSED AND APPROVED BY (NAME OF ADOPTING AUTHORITY) on the day of \_\_\_\_\_

ATTEST:  
CLERK:

\_\_\_\_\_  
BY:



**APPENDIX B**  
**SAMPLE HOUSING INSPECTOR'S REPORT**

Date \_\_\_\_\_

Street Address \_\_\_\_\_

Owner \_\_\_\_\_ Address \_\_\_\_\_

Mortgagee \_\_\_\_\_ Address \_\_\_\_\_

Agent \_\_\_\_\_ Address \_\_\_\_\_

Subdivision \_\_\_\_\_ Block \_\_\_\_\_

Lot \_\_\_\_\_ Lot Size \_\_\_\_\_

Zoning \_\_\_\_\_ Sanitary Sewer \_\_\_\_\_

Facilities Available: Water \_\_\_\_\_ Sanitary Sewer \_\_\_\_\_

Electrical Power \_\_\_\_\_ Gas \_\_\_\_\_

No. of Dwelling Units \_\_\_\_\_ Over Occupancy \_\_\_\_\_

Condition of Building Indicates: Conserve \_\_\_\_\_ Rehabilitate \_\_\_\_\_

Demolish \_\_\_\_\_

Other \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



## APPENDIX C

### SAMPLE HOUSING CODE ENFORCEMENT MASTER CONTROL CARD

Suggested minimum size card 4 x 6 inches (102 x 152 mm). Entries suggested on the card may be changed or altered to fit local conditions.

### HOUSING CODE ENFORCEMENT MASTER CARD

Address \_\_\_\_\_  
Owner \_\_\_\_\_ Address \_\_\_\_\_  
Agent \_\_\_\_\_ Address \_\_\_\_\_  
Subdivision \_\_\_\_\_ Block \_\_\_\_\_  
Lot \_\_\_\_\_  
Type Building \_\_\_\_\_ No. of Stories \_\_\_\_\_  
Occupancy \_\_\_\_\_ Zoning \_\_\_\_\_  
No. of D.U. \_\_\_\_\_ No. of Occupants Exceeding No. Permitted \_\_\_\_\_  
Owner Occupant \_\_\_\_\_ Renter \_\_\_\_\_  
Water Closets \_\_\_\_\_ Lavs. \_\_\_\_\_  
Tubs/Showers \_\_\_\_\_ Sinks \_\_\_\_\_  
Building St'd \_\_\_\_\_ Sub-St's \_\_\_\_\_  
D.U.'s Sub-Std. \_\_\_\_\_  
Condition Indicates: Conserve \_\_\_\_\_ Rehabilitate \_\_\_\_\_  
Demolish \_\_\_\_\_  
Inspected \_\_\_\_\_ Dates of Notices \_\_\_\_\_  
Dates of Hearings \_\_\_\_\_  
Determinations \_\_\_\_\_  
Permits Issued \_\_\_\_\_  
Follow Up Inspections \_\_\_\_\_  
Violations Corrected \_\_\_\_\_