
City of Plainfield



*Property Maintenance
Code*

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AN ORDINANCE

AN ORDINANCE WHICH ESTABLISHES MINIMUM REQUIREMENTS AND STANDARDS FOR ALL RESIDENTIAL AND NON-RESIDENTIAL PREMISES IN THE CITY OF PLAINFIELD FOR THE PROTECTION OF THE PUBLIC HEALTH, CERTAIN CONDITIONS; PERMITS ACCESS WHERE NECESSARY TO MAKE REPAIRS; PROVIDES FOR THE REPAIR, DEMOLITION OR VACATION OF BUILDING UNFIT FOR HUMAN HABITATION OR OCCUPANCY OF USE; AND PROVIDES PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

This ordinance shall be known and may be cited by short form as the "Property Maintenance Code of the City of Plainfield"

SECTION 1 – GENERAL

1.01 SCOPE: This code is to protect the public health, safety, and welfare in all existing structures, residential and non-residential, and on all existing premises as hereinafter provided by:

- A. Establishing minimum maintenance standards for all structures and premises for basic equipment and facilities for light, ventilation, heating and sanitation; for safety from fire; for space, use and location; and for safe and sanitary maintenance of future structures.
- B. Fixing the responsibilities of owners, operators and occupants of all structures.
- C. Providing for administration, enforcement and penalties.

1.02 RESPONSIBILITIES: Unless expressly provided to the contrary in this code, the respective obligations and responsibilities of the owner, operator and occupant shall not be altered or affected by any agreement or contract by and between any of the aforesaid or between them and other parties. The primary responsibility for compliance with the provisions of this code shall be that of the owner.

SECTION 2 – REQUIREMENTS

2.01 MAINTENANCE OF EXTERIOR OF PREMISES AND STRUCTURES: The exterior of the premises and all structures thereon shall be kept free of all nuisances, and any hazards to the safety of occupants, pedestrians, and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator to keep the premises free of hazards which include but are not limited to refuse, litter, trash, condition of natural growth, ground surface hazards, accumulations of storm water and sources of infestation.

2.02 APPEARANCE OF EXTERIOR OF PREMISES AND STRUCTURES: The exterior of the premises, the exterior of dwelling structures, and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the residential standards of the neighborhood or such higher standards as may be adopted as part of a plan of Urban Renewal by the City of Plainfield and such that the appearance of the premises and structures shall not constitute a blighting factor for the adjoining property owners nor an element leading to the progressive deterioration of the neighborhood with the accompanying diminution of property values. The exterior of every structure shall be kept painted and in good repair. Lawns, hedges and bushes shall be kept trimmed and maintained. Parking of vehicles of any type in front yard areas, except driveways, shall be prohibited. Except during the course of repairs or alterations, no more than one-third of the square footage of any single window or single window display area shall be devoted to signs or other temporary advertising material attached to said window or windows or otherwise exposed to public view. All windows exposed to public view shall be kept clean and free of marks or foreign substances except when necessary in the course of changing displays. No storage of materials, stock or inventory shall be permitted in window display areas ordinarily exposed to public view unless said areas are first screened from the public view by drapes, Venetian blinds, or other permanent rendering of the windows opaque to the public view. All screening of interiors shall be maintained in a clean and attractive manner and in a state of good repair.

2.03 PARKING IN RESIDENTIAL AREAS: Except as provided in other regulations, not more than one (1) currently unregistered and/or un-inspected motor vehicle shall be parked on any property in a residential district, and said vehicle shall not at any time be in a state of major disassembly, disrepair, nor shall it be in the process of being stripped or dismantled: A vehicle of any type shall not at any time undergo major overhaul, including body work, in a residential district.

2.04 STRUCTURAL SOUNDNESS: Every dwelling and accessory structure and every part thereof shall be kept structurally sound and in a state of good repair to avoid safety, health, or fire hazards, including exterior walls, siding and roofs. Every dwelling should be maintained weather tight and watertight.

2.05 BASEMENTS AND CELLARS: Basements, cellars and crawl spaces are to be free of moisture resulting from seepage, and cross ventilation shall be required where necessary to prevent accumulations of moisture and dampness.

2.06 SCREENS: Every door and window or other outside opening used for ventilation purposes shall be supplied with approved screening, and every swinging screen door shall have a self-closing device in good working condition, except that such screens shall not be required for areas on a floor above the fifth floor and screens doors shall not be required on non-residential structures or structures where the doors are required to swing out as required in the building code.

2.07 SANITATION AND SAFETY: All parts of the structure shall be kept in a clean and sanitary condition, free of nuisance, and free from health, safety, and fire hazards.

2.08. ACCUMULATIONS AND OBSTRUCTIONS: No accumulations or obstructions from garbage refuse, or rubbish shall be permitted on common stairways, areaways, balconies, porches, hallways, basements, or cellars; except garbage stored in proper containers may be set out for removal.

2.09 FLOORS: Floors of every structure shall be structurally sound and maintained in a clean and sanitary condition. Floors shall be considered to be structurally sound when capable of safely bearing imposed loads and shall be maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks, and other hazards. 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.

2.10 CELLAR AND BASEMENT FLOORS: Floors of basements and cellars shall be paved with concrete not less than four (4) inches thick and shall be maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks, and other hazards.

2.11 WALLS AND CEILINGS: Floors, walls, including windows and doors, ceilings and other interior surfaces shall be maintained in good, clean, and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood, and other defective surface conditions shall be eliminated.

2.12 STAIRS AND RAILINGS: Stairs and other exit facilities shall be adequate for safety as provided in the building code.

2.13 GARBAGE CONTAINERS: The operator and owner of every establishment –producing garbage, vegetable wastes, or other putrescible materials shall provide and at all times cause to be used adequately-screened, leakproof, approved containers with close fitting covers, for the storage of such materials until removed from the premises for disposal. Storage space for such containers shall be provided in the rear of the structure.

2.14 GARBAGE REMOVAL: The owner or operator shall have the duty and responsibility of removing garbage from the premises no less than twice weekly.

2.15 CARETAKER: In every multiple dwelling in which the owner does not reside, there shall be a responsible person, designated by the owner, residing on the premises, whose duties include maintaining the commonly used parts of the premises.

2.16 WATER SUPPLY: The water system shall be maintained in good and operable condition at all times so that sufficient and positive pressure shall be available at all installed hot and cold water faucets.

2.17 HOT AND COLD WATER: Every kitchen sink, bathroom sink and basin, tub or shower, as required under this code shall be connected to both the hot and cold water lines. There shall be sufficient and adequate equipment maintained in good working condition to supply water at a minimum temperature of 120 degrees F at all times to each hot water outlet.

2.18 BATHROOM FACILITIES: Every bathroom required hereunder shall be provided with a flush toilet, a shower or tub and a wash basin.

2.19 PLUMBING MAINTENANCE: All required plumbing facilities, exclusive of heating unit facilities, shall be maintained in a sanitary condition, free of defect, and in operating condition at all times. Where the said facility or plumbing fixture shall be clogged, overflow, or otherwise necessitate repair, such repairs shall be performed forthwith.

2.20 BATHROOM REQUIREMENTS FOR DWELLING UNITS: Every dwelling unit shall contain a bathroom which shall be located entirely within that unit and which shall be completely

enclosed, containing the facilities as set forth in 2.18, in a room which affords privacy to the occupants thereof.

2.21 HEAT AND-HEATING FACILITIES: Every dwelling unit shall contain properly maintained central heating facilities of sufficient capacity to maintain a minimum inside temperature of 68 degrees F in all habitable rooms, bathrooms, and water closet compartments measurable thirty-six (36) inches above the floor at the center of any such room or compartment when the outside temperature is 0 degrees F. Where the facilities are found to be of inadequate size or capacity to accomplish the foregoing, then the owner or operator shall at the direction of the Public Officer, either increase the capacity of the heating system or close off habitable space so that the standard as established herein shall be met, provided that such space can be removed as habitable space without creating a violation of the standards established by this code.

2.22 HEATING REQUIREMENTS: Except as hereinafter stated, from October 1st to May 1st, the interior of every dwelling unit or rooming unit, bathroom, and water closet compartment shall be maintained at a minimum of 68 degrees F. during the hours between 6:00 a.m. to 11:00 p.m. whenever the outside temperature falls below 55 degrees F. During the hours between 11:00 p.m. to 6:00 a.m. the minimum interior temperature shall be maintained at 65 degrees F. whenever the outside temperature falls below 40 degrees F.

Except as hereinafter stated, from May 1st to October 1st, every dwelling unit, rooming unit, bathroom and water closet compartment shall be maintained at a temperature of sixty-eight degrees F. during the daytime hours from six (6:00) a.m. in the morning and eleven (11:00) p.m. in the evening whenever the outside temperature falls below fifty five degrees F.

In meeting the aforesaid standards the owner shall not be responsible for heat loss and the consequent drop in the interior temperature arising out of action by the occupant in leaving windows or doors open to the exterior of the building. The presence of heating outlets, radiators, risers, or returns in any hall or dwelling unit or rooming unit shall constitute a presumption that the owner is to supply heat as required hereunder and in the absence of clear and convincing proof to the contrary, this presumption shall control.

Amended October 30, 1989, Effective: November 14, 1989

2.23 HEATING- SYSTEM MAINTENANCE: Notwithstanding a contract by the occupant to supply his own heat as provided herein, where the heating unit is installed or owned by the owner or operator, then the duty to maintain the same in operable and functioning condition as provided herein shall remain the duty of the owner or operator.

2.24 ELECTRICAL REQUIREMENTS: Where it is found in the opinion of the code official, that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation deterioration or damage, or for similar reasons, he shall require the defects to be corrected to eliminate the hazard.

2.25 ELECTRICAL OUTLETS: Where there is electric service available to a structure, every habitable room of the dwelling unit, and every guest room, shall contain at least two (2) separate and remote outlets, one (1) of which may be a ceiling or wall type electric light fixture. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one (1) electric outlet.

2.26 LIGHTING OF COMMON SPACES: Lighting of hallways, stairways, landings, and other spaces used by occupants in common as a normal means of passage shall be sufficient to provide at least 5 foot-candles (5 lumens) measured in the darkest portion. Light switches for stairs and hallways shall be readily accessible to the occupants using the same and so located as to comply with 2.12. Every cellar, basement, work space, and other parts of the structure used occasionally and incidentally by the occupants shall be provided with artificial lighting available at

all times so that there shall be at least 3 foot-candles (3 lumens) measured in the darkest portion trafficked by occupants.

2.27 SUSPENSION OF UTILITIES: No owner, operator, or occupant shall cause any service, facility equipment, or utility, which is required to be supplied by the provisions of this code, to be removed from or is continued for an occupied dwelling unit or rooming unit, except for necessary repairs, alterations, or emergencies, or for such other reason as may be permitted pursuant to those sections of the City ordinances applicable to such service, facility, equipment, or utility.

2.28 RESPONSIBILITY FOR UTILITIES: Where utilities and facilities, meaning for the purpose of this section gas, oil, water and heating systems, are not supplied directly and independently through the use of separate meters, tanks and piping to each individual dwelling unit in a building or structure, the landlord or owner is responsible for supplying same.

2.29 OCCUPANCY OF DWELLING UNITS: Every dwelling unit shall contain a minimum superficial floor area of one hundred fifty (150) square feet for the initial occupant, plus one hundred (100) square feet for each occupant thereafter, except that for the purpose of this section, children under one year of age shall not be counted as occupants. At least 50% of the minimum superficial floor area shall have a minimum height of seven (7) feet.

2.30 OCCUPANCY OF SLEEPING ROOMS: Every room utilized for sleeping purposes shall have a minimum superficial area of seventy (70) square feet for the initial occupant and fifty(50) square feet of additional superficial floor area for each additional occupant, except that children under one (1) year of age shall not be counted as occupants for the purpose of this section. Independent rooming units shall be rented for occupancy or occupied by adults and emancipated minors only, limited to a total occupancy by two (2) persons.

2.31 CELLARS AND BASEMENTS: Use of a cellar for sleeping purposes is hereby prohibited. Basements may be utilized for human habitation provided that: (a) there be sufficient light and ventilation as more particularly required by 2.32 and that natural light and ventilation are not restricted by reason of walls or other obstructions located within six (6) feet of any window required, pursuant to this section; (b) all furnaces or other heating facilities be so located, insulated, and separated from living areas by fireproof partitions or walls necessary pursuant to regulations of the Fire Chief so that the same does not constitute an undue hazard to the safety and health of the occupants; and (c) the dwelling units and all walls and floors thereof be free of visible moisture and seepage at all times.

2.32 WINDOWS AND SKYLIGHTS: Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum aggregate window or skylight area available to unobstructed light shall not be less than 8% of the floor area of such rooms. The window or skylight shall either open to 45% of the required area or be supplied with a mechanical ventilation system of sufficient capacity provided with proper openings for incoming or outgoing air to assure comparable ventilation. Openings for ventilation as required herein shall include windows, skylights, louvers, monitors, or other openings provided all such openings are easily operative by the occupants. Every bathroom and water closet compartment shall be adequately lighted and *ventilated* by natural or mechanical means.

2.33 DWELLING UNIT FACILITIES: Every dwelling unit shall have a bathroom, containing a toilet, wash basin, bathtub or shower; shall be equipped with private kitchen facilities; and shall comply with such other requirements as are set forth elsewhere in this code. Where there are more than eight (8) occupants, the said unit shall have two (2) bathrooms. Each dwelling unit or rooming unit shall contain at least one (1) closet for each bedroom located within the dwelling unit; every kitchen shall contain adequate storage facilities for dishes and utensils.

2.34 COOKING: On or after January 1, 1965, no cooking shall be permitted in any dwelling unit unless there be minimum sanitary facilities, which facilities shall include:

(a) kitchen sink of non-absorbent impervious material; and drain board of appropriate materials, said sink to be connected to the hot and cold water lines; (b) a waterproof washable container for garbage disposal equipped with lid or cover to prevent infestation; (c) appropriate facilities for storage of food and either gas or electric refrigeration; (d) means of ventilation sufficient to remove cooking odors to exterior of premises; and (e) flooring in compliance with **2.09**.

2.35 COMMUNITY COOKING FACILITIES: Cooking facilities serving more than one dwelling unit or independent rooming unit or combination thereof shall not be permitted.

2.36 EGRESS FROM ROOMING UNITS: Independent rooming units shall, except in single-family dwellings, have a door opening directly into a common hallway or areaway. Any independent rooming unit located in the basement or at ground level of a dwelling shall be provided with a second means of egress with the same requirements as provided in **2.31**. Where there is an independent rooming unit located above the first story, a common hallway or areaway shall have two means of egress remote from each other and conforming to the requirements of the Building Code.

SECTION 3 - DUTIES AND RESPONSIBILITIES OF OCCUPANTS

3.01 DAMAGE TO PROPERTY: Every tenant shall be responsible for damage to any interior part of the premises whether caused accidentally or otherwise. The Public Officer may serve a written notice upon a tenant in accordance with Section 4.06 of this code, requiring correction of any damage, and failure to make such correction or repair shall subject the occupant to penalties prescribed by this code.

3.02 DAMAGE BY HEATING OR COOKING: No occupant shall cause excessive discoloration of the walls or ceiling of any part of the premises by improper use of heating or cooking equipment.

3.03 PLUMBING MAINTENANCE: Every occupant or operator shall maintain all plumbing fixtures used by him in a clean and sanitary condition and he shall not deposit any material in any fixture or sewer system which would result in stoppage of or damage to the fixtures or sewer system.

3.04 COOKING: No occupant shall cook in any dwelling unit except where all the required sanitary facilities are installed as required under 2.34.

3.05 VIOLATIONS BY MINORS: Any adult member of the family shall be responsible for and liable for any violation of the stated sub-section caused by minors using or visiting the dwelling unit if the violations were created or permitted to continue with the knowledge or acquiescence or consent of said adult member.

SECTION 4 - ADMINISTRATIVE PROVISIONS

4.01 PUBLIC OFFICER: The person charged with the responsibility of enforcement of this code shall also be known as the Public Officer.

4.01 (a) AGENTS: The Public Officer hereby supplements its enforcement capabilities by designating the Director of the Department of Public Works and Urban Development, The Director of the Department of Public Affairs and Safety, The Health Officer of the Division of Health or their authorized representatives as its agents.

4.02 INSPECTIONS: All buildings and premises subject to this code are subject to inspections from time to time by the enforcing officer of the City. At the time of such inspections, all rooms in the building and all parts of the premises must be available and accessible for such inspections, and the owner, operator, and occupant are required to provide the necessary arrangements to

facilitate inspections. Such inspections shall be made between 8 a.m. and 4 p.m. prevailing time, unless one of the following conditions exists: (a) the premises are not available during the foregoing hours for inspections; (b) there is reason to believe that the violations are occurring on the premises which can only be apprehended and detected by inspections during other than the prescribed hours or which require immediate inspection after being reported, such as failure to supply heat; and (c) there is reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

4.03 IDENTIFICATION AND CONDUCT OF INSPECTORS: Inspectors shall be supplied with official identification and upon request shall exhibit such identification when entering any dwelling unit, rooming unit, or any premises subject to this code. Inspectors shall conduct themselves so as to avoid intentional embarrassment or inconvenience to occupants.

4.04 ENTRY REFUSAL: Where the Public Officer or his agent is refused entry or access or is otherwise impeded or prevented by the owner or operator from conducting an inspection of the premises, such person shall be in violation of this code and subject to the penalties hereunder.

4.05 SEARCH AND ACCESS WARRANTS: In addition to the provisions of **4.04**, the Public Officer may, upon affidavit, apply to the Magistrate of the City of Plainfield for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this code exists on the premises, and if the Magistrate is satisfied as to the matter set forth in the said affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation exists. Warrant for access may be issued by the Magistrate upon affidavit of the Public Officer establishing grounds thereof.

4.06 NOTICE PROCEDURE: Except as provided in **4.14**, where a violation of this code or the regulations hereunder is found to exist, a written notice from the Public Officer shall be served on the person or persons responsible for the correction thereof.

4.07 CONTENTS OF NOTICE: "Except as provided in **4.07(a)** the notice shall specify the violation(s), what must be done to correct same, a reasonable period of time not to exceed thirty (30) days to correct or abate the violation(s) unless extenuating circumstances warrant otherwise, the right of the person served to request a hearing, and that the notice shall become an order of the Public Officer in ten (10) days after service unless a hearing is requested pursuant to 4.04.

4.07 (a) CONTENTS OF NOTICE FOR VIOLATIONS OF SECTIONS 2.01, 2.02, 2.03, 2.13, AND 2.14: A violation notice shall be left at the premises and mailed to the owner of record. The notice shall specify the violation(s), what must be done to correct same, a period of not less than five (5) working days to accomplish same, and appeal provisions as prescribed in Section **4.09(a)**.

4.08 SERVICE OF NOTICE: Notice may be served personally or by prepaid telegram or by mail with postage prepaid, addressed to the last known address of the person to be served. In the case of an occupant, notice may be posted upon the door of his dwelling unit or rooming unit. Where it is ascertained that the owner does not reside on the premises, the "last known address" shall be the address of the owner as shown in the office of the Tax Collector. If the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the building. The Public Officer shall file and provide notice to any owner, operator or occupant of any violation at any address other than the last known address provided hereunder if such other address is filed with the Public Officer personally or by certified mail addressed to the Public Officer. Service upon an owner, operator, or occupant may be also attained by service of any notice upon a member of the family of the owner, operator or occupant. Date of service of the notice shall be determined where service is by mail as of the day following the day of mailing the day of mailing for notice to addresses within the City, and as of the fourth day after the day of mailing for notice to addresses outside the City. Where the day of service would fall upon a Sunday or other day

when mail is not ordinarily delivered, then the day of service shall be the next regular delivery day.

4.09 NOTICE TO BECOME ORDER: Within ten (10) days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon, serves a written request within the ten (10) day period in person or by mail on the Public Officer. Such request for a hearing shall set forth briefly the grounds or reasons on which the request for a hearing is based and the factual matters contained in the notice of violation which are disputed at the hearing. The Public Officer, upon receipt of the request, shall within thirty (30) days therefrom and upon five (5) days notice to the party aggrieved set the matter down for hearing.

4.09 (a) APPEAL PROCESS FOR VIOLATIONS OF THE FOLLOWING CODES 2.01, 2.02, 2.03, 2.13, AND 2.14: A property owner or agent may appeal fines imposed by filing a written request for a hearing to the Director of the Division of Inspections, 515 Watchung Avenue, Plainfield, N.J. 07061, within five (5) working days from the date of the notice of violation

4.10 HEARING DETERMINATION: At any HEARING provided hereunder the Public Officer shall be vested with all the powers provided by law to compel the attendance of witnesses and parties in interest by issuance and service of subpoena, to require by subpoena the production of books, records or other documents at any such hearing which may be pertinent to matters to be determined by him and to enforce any such subpoena as provided by law. Determination shall be made within ten (10) days from the completion of the hearing. The Public Officer shall issue an order either incorporating the determinations and directions contained in the notice, modifying the same or withdrawing the notice.

4.11 SUMMARY ABATEMENT IN EMERGENCY: Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb or is severely inimitable to the welfare and well being of the citizens of Plainfield unless abated without delay, the Public Officer may either abate the violation or condition immediately or order the owner, operator, or occupant to correct the violation or condition within a period of time not to exceed three (3) days, and upon failure to do so, the Public Officer shall abate the condition immediately thereafter.

4.12 COST OF VIOLATION ABATEMENT: Where the abatement of any nuisance as defined herein, correction of a defect in the premises or bringing the premises into compliance with the requirements of any municipal ordinance or State law applicable thereto requires expending City monies therefore, the Public Officer shall present a report of work done to accomplish the foregoing to the City Council along with a summary of the proceedings undertaken by the Public Officer to secure compliance. After review of the same, the City Council may approve the said premises and costs whereupon the same shall become a lien against the said premises collectible as provided by law. A copy of the resolution approving the said expenses and costs shall be certified by the City Council and filed with the Tax Collector of the City, who shall be responsible for the collection thereof.

4.13 EXTENSION FOR DISPOSSESS ACTIONS: Where there exists a violation of occupancy standards hereunder, an owner or operator, upon receipt of a notice of a violation, if unable to eliminate the violation by peaceable means within the period of time specified in said notice, shall commence within such period legal action to dispossess, evict or eject the occupants who cause the violation. No further action hereunder shall then be taken against the owner or operator so long as the action aforesaid is pending in the court and is prosecuted expeditiously and in good faith.

4.14 NOTICE AND HEARING NOT REQUIRED:

A. Notwithstanding the requirements of **4.07** and **4.10**, violations of the following sections may be prosecuted without notice by the filing of a complaint by the Public Officer in the Municipal Court -

1. Utilities and facilities **2.17** through **2.38**
2. Entry Refusal **4.04**
3. Failure to comply with order **5.05**

B. Where the Public Officer shall determine that there was a violation and a notice was served upon the owner, operator, or occupant whether or not said violation was abated prior to the issuance of an order, if thereafter within the space of one (1) year there shall be a second violation by the same owner, operator, or occupant of the same provision of this code discovered on the same premises, the offender may be prosecuted on the second violation without the Public Officer first giving notice and opportunity for a hearing to the owner, operator, or occupant by the filing of a complaint by the Public Officer in the Municipal Court. Where the Public Officer has on two (2) different occasions found violations by the same owner, operator or occupant on the same premises within the space of one (1) year, whether of the same section or of any other sections of this code, he may thereupon prosecute the offender by filing a complaint in the Municipal Court of the City for the third or subsequent violation occurring within the said period of one (1) year without first providing notice and opportunity for a hearing by the Public Officer.

4.15 EFFECT OF NOTICE: For the purposes of enforcement of this code, the service of a notice on an owner, whether or not the owner is also the operator, shall constitute notice of violations set forth therein until said violations are abated in conformity with this code and other applicable ordinances of the City of Plainfield.

4.16 APPOINTMENT OF RECEIVER: Where the owner, operator, or lessor of any structure containing two (2) or more dwelling units which is let or rented to another in whole or in part violates this code or any other municipal ordinance pertaining to said structure or fails to abate any violation of this code, or violates an order of the Public Officer with respect thereto, the Public Officer, upon resolution duly approved by the City Council, may commence an action in the Superior Court seeking appointment of the Public Officer as Receiver ex officio of the rents and income from the said property. The said rents and income shall be collected by the said Receiver and shall be expended and allotted to: (a) secure compliance with the ordinance of the City and laws of the State as set forth in the order of the Public Officer; (b) be utilized to defray such costs and expenses of the receivership as may be adjudged by the Superior Court; and (c) be applied towards payment to the City of Plainfield of any fines or penalties with costs which may have been imposed on the owner, operator or lessor for violation of the ordinances of the City Of Plainfield and which have remained unpaid.

4.17 PENALTIES:

Fines- A violation of any section or subsection of this code shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00) for each violation committed hereunder. Each violation of a section or subsection of this code shall constitute a separate and distinct violation independent of any other section or subsection. Each days failure to comply with any such section or subsection shall constitute a separate violation.

Penalties in Addition- Where an owner, operator, or occupant has been convicted of a violation of this code, and within twelve (12) months thereafter has been found by the Magistrate of the Municipal Court to be guilty of a second violation of this code, the Court may, if it finds that the second offense was willful and inexcusable, sentence the offender in addition to or in lieu of the fine set forth in the above paragraph to imprisonment in the County jail for a period of time not to exceed ninety (90) days.

Liability of Officers and Agents- Where the defendant is other than a natural person or persons, the above two (2) paragraphs shall also apply to any agent, superintendent, officer, member or partner who shall alone or with others have charge, care, or control of the premises.

4.17 (a) VIOLATION; PENALTY - FIRST OFFENSE: Violations of Sections **2.01**, **2.02**, **2.03**, **2.13**, and **2.14** as listed below shall be punishable by fines of not less than the amounts listed below and not more than \$200-00 for the first offense as follows:

2.01 Failure to remove trash and debris	\$50.00
2.02 Failure to cut and maintain lawn	\$50.00
2.03 Failure to remove abandoned/disabled vehicle	\$50.00
2.13 Improper garbage storage	\$100.00
2.14 Failure to provide garbage removal services no less than twice weekly	\$100.00

4.17 (b) VIOLATION; PENALTY - SECOND OFFENSE: Violations of Sections 2.01, 2.02, 2.03, 2.13, and 2.14 as listed above shall be punishable by fines of not less than \$200.00 and not more than \$400.00 for the second offense and or not more than three (3) days imprisonment.

4.17 (c) VIOLATION; PENALTY - THIRD AND SUBSEQUENT OFFENSES:

Violations of Sections 2.01, 2.02, 2.03, 2.13, and 2.14 as listed above shall be punishable by fines of not less than \$300.00 and not more than \$500.00 for a third offense and all offenses thereafter with a term of imprisonment of not less than five (5) but not more than ten (10) days. All fines are due and payable to the Division of Inspections, 515 Watchung Avenue, upon expiration of the violation notice. Failure to pay fine and correct violation(s) will result in further Court action.

4.18 ADOPTION OF RULES AND REGULATIONS: The Public Officer is hereby authorized and empowered to promulgate such written rules and regulations as may be necessary for the proper interpretation and administration of the provisions of this code, provided that such rules and regulations do not conflict with this code and conform to the general standards prescribed by this code. The Public Officer shall file copies of such rules and regulations with the City Clerk and shall make available in the Public Officer's office a copy for inspection by the members of the public during regular business hours.

4.19 VARIATION AND MODIFICATION OF PROVISIONS: The Public Officer shall have the power to withhold strict enforcement of the requirements of this code upon written application therefore by an owner, operator, or occupant, after making determination that: (a) any variation or modification of structure or use approved by the Public Officer will not in any material way alter the standards of this code and cannot affect detrimentally the health or safety of occupants of owners of adjacent premises or of the neighborhood; (b) strict enforcement would constitute an undue and unnecessary hardship on the owner, operator, or occupant because it would compel expenditures on the premises which would be substantially disproportionate to "any benefit to health, safety, or welfare that might be derived therefrom; and (c) the owner, operator, or occupant is without any practical or feasible means to comply with the strict provisions of this code. Upon denial of any such application, the owner, operator, or occupant may request a hearing which shall be held in accordance with provisions of **4.09**. Such application shall not constitute a defense of any violation of this code concerning which any proceedings are pending in the Municipal Court when the application is filed nor shall any variance or modification allowed hereunder constitute a vested right against any ordinance enacted hereinafter by the City Council compelling strict enforcement of any provisions of this code.

4.20 REQUEST INSPECTIONS: Whenever an owner, operator, or occupant, prospective purchaser, mortgagee, or prospective occupant shall apply to the Public Officer for an inspection in order to ascertain if any section of this code has been violated, the Public Officer shall, upon payment often fee hereunder stated, cause an inspection to be made of the premises and issue an informational certificate or report of the inspection to the applicant, indicating therein any violations of this code on the premises. The applicant for inspection shall state in writing his full name, residence, and the reason and basis for which the inspection is requested. The Public Officer may deny the application for failure to comply with this requirement. The fee for any inspection made under this section shall be Twenty Dollars (\$20.00) dwellings of ten (10) or less units, Five Dollars (\$5.00) additional for each unit in excess of ten (10), and Five Dollars (\$5.00) for each re-inspection subsequent to the first re-inspection.

4.21 TRANSFER OF PROPERTY: Any person who sells-or conveys any dwelling or dwelling unit in the City of Plainfield shall include, as part of the agreement of sale, a statement that there is or is not any outstanding Notice or Order, issued by the Public Officer, citing violations of the provisions of this ordinance. The failure of a seller or conveyor to conform to the requirements of the above statement, even if with the consent of the purchaser or transferee, shall be in violation of this ordinance and subject to the penalties as set forth in Section **4.17**. Upon written request and payment of a fee as stipulated under Section **4.20** by persons seeking compliance with this section, the Public Officer shall cause an inspection to be made and shall mail a report of such inspection to the person requesting it.

4.22 OTHER REGULATIONS: The provisions in this code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein.

4.23 SEVERABILITY: If any section, sub-section, paragraph, sentence, clause, phrase, or word contained in this code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this code which shall remain in full force and effect, and to this end the provisions of this code are hereby declared to be severable.

4.24 EXISTING OFFENSES AND VIOLATIONS: The repeal of any other ordinances by this code shall not affect any action for prosecution or abatement under any such ordinance or any notice, complaint, or order issued by any officer or agency of the City prior to the effective date hereof or concerning which any prosecution or other steps of enforcement have been taken or are being taken within any administrative agency or in the Municipal Court for enforcement thereof

4.25 EXISTING ORDINANCES: Chapter 6, Article 2, of the Municipal Code of the City of Plainfield, 1971, is hereby repealed.

SECTION 5 – BUILDINGS UNFIT FOR HUMAN HABITATION

5.01 FINDING OF UNFITNESS: The Public Officer on his own, or upon the filing of a petition by at least five (5) residents charging that a building is unfit for human habitation or use shall make an inspection of any building believed to be unfit for human habitation or use, and shall make a preliminary finding in accordance with the standards provided herein whether or not the premises are unfit for human habitation or use, and if so he shall, except where Section **5.01** applies, thereupon serve a notice upon the owner, operator, and occupant advising all such parties of the result of his inspection and the basis for his determination and setting a date for a hearing not less than ten (10) nor more than thirty (30) days from the date of service of the last notice to be served.

5.02 BASIS FOR FINDING: In making a determination of whether a building is unfit for human habitation or use, the Public Officer shall determine whether by reason of violation of the code existing in the building or on the premises that continued occupancy of the building will not endanger and jeopardize the health and safety of the occupants or persons in the vicinity of the premises, and to that end he may consider, among other factors:

- A. Structural- Whether the premises are so structurally defective that there is a risk of collapse or of loose materials falling and injuring persons in and around the building.
- B. Ventilation- Whether by -reason of inadequate ventilation there is a danger of communicable diseases being contracted and spread in and among the occupants or persons in the vicinity of the premises.
- C. Maintenance, Infestation, or Defects- Whether by reason of infestation or defective condition of plumbing, or the lack of maintenance
- D. Facilities and Egress - Whether by reason of electrical wiring, conduits or equipment, heating or cooking facilities, or lack of proper means of egress, there is a danger of fire, or in the case of fire, inadequate means of egress.

- E. Utilities - Whether premises are deficient in one or more essential utilities, including sewage disposal facilities, water supply, or electricity.
- F. Design of Premises - Where premises were not designed or constructed for human habitation, whether by reason of the same, occupancy constitutes an unnecessary hazard to safety or health.

5.03 HEARING AND DETERMINATION: After the holding of a hearing as prescribed in 4.09, the Public Officer shall make a determination as to whether the building is unfit for human habitation or use, and thereupon he shall make an order based on an evaluation of health and safety factors in the use of the premises, as follows:

- A. Limited Time of Occupancy - That occupancy of all or part of the building be permitted for a limited period of time not to exceed thirty (30) days, upon condition that all violations recited in the order are corrected, or abated within that time and if not corrected or abated, the premises be vacated within (10) days thereafter.
- B. Posting of Premises - That the building or any part thereof be ordered vacated within a specified period not to exceed thirty (30) days, be boarded up and signs or notices that occupancy is prohibited be posted prominently at all times at all entrances of the building and that the order continue in effect until the conditions are abated and the order revoked as provided herein. The order may prohibit occupants from paying, and the owner and operator from receiving rent or other compensation for use and occupancy while it remains in effect.
- C. Demolition - That by reason of the complete state of disrepair and the disproportionate investment required to restore the building to habitable condition and the danger that the premises constitutes, even while vacant, a threat to the health or safety of persons on or near the premises, that the improvement of the building is impracticable and continuance of the building vacant constitutes a danger to the health, safety, and wellbeing of the neighborhood, whereupon the building is to be ordered vacated and demolished within a period of time not to exceed sixty (60) day. If application for a Demolition Permit is not made within thirty (30) days from the date of the notice ordering vacation and demolition, the Public Officer will proceed with demolition or cause the building to be demolished. The cost of such demolition shall be charged against the property affected in accordance with Section 4.12

5.04 Compliance with Order and Re-inspection: Where premises are ordered vacated, all doors to the exterior shall be secured and first story or basement and cellar windows barred or boarded and all other windows protected against breakage. Where an order is issued under **5.03**, it shall be served on all persons affected thereby pursuant to **4.08**. When the conditions of the violation complained of are corrected the owner or occupant affected thereby may request a re-inspection which shall be provided upon the payment of a re-inspection fee of Ten Dollars (\$10.00). Based on the re-inspection the Public Officer shall issue a further order which shall either revoke the previous order and permit occupancy or state such further conditions or time limits during which additional repairs or improvements are to be made before occupancy is again permitted or order vacation and demolition as in **5.03(C)**. Upon compliance with the conditions contained in any order, the Public Officer shall permit the signs on the premises to be removed and the premises made available again for occupancy.

5.03 HEARING AND DETERMINATION: After the holding of a hearing as prescribed in **4.09**, the Public Officer shall make a determination as to whether the building is unfit for human habitation or use, and thereupon he shall make an order based on an evaluation of health and safety factors in the use of the premises, as follows:

- A. Limited Time of Occupancy - That occupancy of all or part of the building be permitted for a limited period of time not to exceed thirty (30) days, upon condition that all violations recited in the order are corrected, or abated within that time and if not corrected or abated, the premises be vacated within (10) days thereafter.

- B. Posting of Premises - That the building or any part thereof be ordered vacated within a specified period not to exceed thirty (30) days, be boarded up and signs or notices that occupancy is prohibited be posted prominently at all times at all entrances of the building and that the order continue in effect until the conditions are abated and the order revoked as provided herein. The order may prohibit occupants from paying, and the owner and operator from receiving rent or other compensation for use and occupancy while it remains in effect.
- C. Demolition - That by reason of the complete state of disrepair and the disproportionate investment required to restore the building to habitable condition and the danger that the premises constitutes, even while vacant, a threat to the health or safety of persons on or near the premises, that the improvement of the building is impracticable and continuance of the building vacant constitutes a danger to the health, safety, and wellbeing of the neighborhood, whereupon the building is to be ordered vacated and demolished within a period of time not to exceed sixty (60) day. If application for a Demolition Permit is not made within thirty (30) days from the date of the notice ordering vacation and demolition, the Public Officer will proceed with demolition or cause the building to be demolished. The cost of such demolition shall be charged against the property affected in accordance with Section 4.12

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5.05 Failure To Comply With Order: Where owner, operator or occupant (a) fails to comply with an order hereunder; (b) fails to perform in accordance with any written commitment as provided herein; (c) removes any notice posted pursuant hereto; (d) removes any lock or bar installed pursuant hereto, without the permission of the Public Officer, he shall be deemed in violation of this code and subject to the penalties provided herein. In addition thereto, the Public Officer may take such steps as may be necessary to compel vacation and boarding up of any premises and may post signs prohibiting occupancy: Upon failure to comply with any such order, the premises shall constitute a public nuisance and the Public Officer may take such further action under the criminal and civil laws of this State through any court of competent jurisdiction as may be necessary to remove or abate the nuisance.

SECTION 6 - DEFINITIONS

The following terms whenever used herein or referred to in this code shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

ACCESSORY STRUCTURE: A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

BASEMENT: The portion of the building that is partly underground which has more than one-half of its height, measured from clear floor to ceiling, above the average adjoining ground level. Where the natural contour of the ground level immediately adjacent to the building is interrupted by ditching, pits, or trenching, then the average adjoining ground level shall be the nearest natural contour line parallel to the walls of the building without regard to the levels created by the ditching, pits or trenching.

BATHROOM: Enclosed space containing one or more bathtubs, showers, or both, and which shall also include toilets, lavatories, or fixtures serving similar purposes.

BUILDING: A combination of materials to form a construction adapted to permanent or continuous occupancy or use for public, institutional, residence, business, or storage purposes.

BUILDING CODE: The Building Code of the State of New Jersey.

CELLAR: Lowest portion of the building partly or totally underground, having half or more of its height measured from clear floor to ceiling below the average adjoining ground level. Where the natural contour of the ground level immediately adjacent to the building is interrupted by ditching, pits, or trenching, then the average adjoining ground level shall be the nearest natural contour line parallel to the walls of the building without regard to the level created by the ditching, pits, or trenching.

CENTRAL HEATING SYSTEM: A heating system in a fire resistant enclosed space or spaces, separate and apart from the area to be heated, which system is permanently affixed on a fireproof base and connected by breaching to a stack in accordance with the Building Code. Direct electric and/or gas heating systems without the use of a boiler, serving all dwelling units in a structure, are exempt from the above requirements.

DWELLING: Any building, or structure, or part thereof, used and occupied for human habitation or intended to be used, and includes any appurtenances belonging thereto or used therewith.

DWELLING UNIT: A group of interrelated rooms intended or designed for non-transient residential use of one family: (a) separated from the other spaces by lockable doors, (b) having access to the outside without crossing another dwelling, (c) having living, eating and sleeping facilities.

EMANCIPATED MINOR: Any person under the age of 21 who is gainfully employed and self-supporting or who is married to a spouse who is gainfully employed and who supports the said minor, or who is a student living away from home and in regular attendance at an institution of higher learning.

EXTERIOR OF THE PREMISES: Open spaces on the premises outside of any building thereon.

EXTERMINATION: The control and extermination of insects, rodents, and vermin by eliminating their harborage places; by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating, trapping, or by other approved means of pest elimination.

FIRE HAZARD: The term "fire hazard" shall be defined as follows: (a) any device or condition likely to cause fire and which is so situated as to endanger either persons or property; (b) the creation, maintenance, or continuance of any physical condition by reason of which there exists a use, accumulation, or storage for use of combustible or explosive material sufficient in amount or so located or in such a manner as to put in jeopardy, in event of ignition, either persons or property; (c) the obstruction to or of fire escapes, ladders which may be used as escapes, stairways, aisles, exits, windows, passageways or halls, likely, in the event of fire, to interfere with the operation of the Fire Department or of the safety and ready egress of occupants; and (d) the violation of any rule now or hereafter promulgated by the Fire Department of the City of Plainfield.

FLOOR AREA, SUPERFICIAL: The net floor area within the enclosing walls of the room, excluding built-in equipment such as wardrobes, cabinets, closets, kitchen units, or fixtures which are not readily removable and excluding the floor area where the floor to ceiling height is less than four and one half (4 ½) feet.

GARBAGE: (See also REFUSE, RUBBISH): Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM: Space in an enclosed building, or space set apart by partition or partitions, and any space in a building used or intended to be used as a bedroom, dining room, living room, kitchen, sewing room, library, den, music room, dressing room, enclosed sleeping porch, sun room, party room, recreation room, breakfast room, study, storage room, and similar uses.

ROOMING UNIT: Any room or group of rooms forming a single habitable unit other than a dwelling unit, which is rented or available for rent for sleeping purposes.

RUBBISH (see also GARBAGE, REFUSE): Non-putrescible solid wastes consisting of both combustible and non-combustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials commonly known as litter and trash.

SANITARY SEWER: Any sanitary sewer owned operated and maintained by the City of Plainfield, and available for public use for the disposal of sewerage system approved by the Board of Health of the City of Plainfield.

SEWAGE: Waste from a flushed toilet, bathtub, sink, lavatory, dishwashing, or laundry machine or the water carried waste from any other fixture or equipment or machine.

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building, included between the upper surface of the topmost floor and the ceiling or roof above. If the finished ceiling level directly above a basement or cellar is more than four (4) feet above grade, such basement or cellar shall be considered a story.

STRUCTURE: Anything constructed, assembled, or erected, the use of which requires location on the ground or underground or attachment to something having location on or in the ground, and shall include fences, walls, tanks, towers, advertising devices, bins, tents, lunch wagons, trailers, dining cars, cam cars, or similar structures on wheels or other supports used for business or living purposes. This includes any structure equipped with a roof, whether permanent or temporary, such as porches, awnings, canopies, swimming pools, summer houses, arbors, balconies, and similar elements, fences and signs but does not include patios at grade or unroofed surfaces prepared for sports. The word "structure" shall not apply to utility services entirely below the ground.

SUPERFICIAL FLOOR AREA (see FLOOR AREA, SUPERFICIAL)

VENTILATION: Supply and removal of air to and from any space by natural or mechanical means.

VENTILATION, MECHANICAL: Ventilation by power-driven devices.

VENTILATION, NATURAL: Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks with or without wind-driven devices.

WATER CLOSET COMPARTMENT: Enclosed space containing one or more toilets which may also contain one (1) or more lavatories, urinals, and other plumbing fixtures.

WASHROOMS: Enclosed space containing one (1) or more bathtubs, showers, or both and which shall also include toilets, lavatories, or fixtures serving similar purposes.

MEANING OF CERTAIN WORDS: Whenever the words "accessory structure", "building", "dwelling", "dwelling unit", "habitable room", "independent rooming unit", "premises", "room", "rooming unit", or "structure" are used in this code, they shall be construed, unless expressly stated to the contrary, to include the plurals of these words and as if they were followed by the words "or any part thereof". The word "shall" shall be applied retroactively as well as prospectively.