

CHAPTER 1491

Rental Housing Code

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1491.01 TITLE.

This chapter shall be known as the "Rental Housing Code" and may be referred to in this chapter as "this Code."

(Ord. 122-01. Passed 12-19-01.)

1491.02 FINDINGS OF FACT; DECLARATION OF POLICY.

It is hereby found and declared that there exist in the Village rental housing properties which are, or may become in the future, substandard with respect to the structure and maintenance thereof, or, further, that conditions, including but not limited to structural deterioration, lack of maintenance, the appearance of the exterior of the premises, the existence of fire hazards and unsanitary conditions, constitute a menace to the health, safety, welfare and reasonable comfort of the residents and inhabitants of the Village. It is further found and declared that, by reason of lack of maintenance

and progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate the same. By reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the immediate neighborhood and property values thereby maintained, the desirability and amenities of rental housing properties and immediate neighborhoods enhanced and the public health, safety and welfare protected and fostered.
(Ord. 122-01. Passed 12-19-01.)

1491.03 PURPOSE.

The purposes of this Code are to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and condition of all rental housing properties; to impose certain responsibilities and duties upon owners and operators; to authorize and establish procedures for the inspection of rental housing properties; to provide for the issuance of certificates of occupancy; to establish a fee schedule for inspections; to authorize the vacation or condemnation of dwelling structures that are unsafe or unfit for human habitation; and to fix penalties for violations of this Code. This Code is hereby declared to be remedial and essential for the public interest, and it is intended that this Code be liberally construed to effectuate the purposes as stated herein.
(Ord. 122-01. Passed 12-19-01.)

1491.04 DEFINITIONS.

Unless a different meaning is indicated clearly by the context, as used in this Code:

- (a) "Accessory structure" means 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.
- (b) "Building" means a combination of materials to form a construction adapted to permanent or continuous occupancy or use for public, institutional, residence, business or storage purposes.
- (c) "Building Code" means the Building Code of the Village.
- (d) "Deterioration" means the condition or appearance of a building, or any part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect or lack of maintenance.
- (e) "Dwelling" means any structure designed for use by human occupants for sleeping and living purposes, whether occupied or vacant.
- (f) "Dwelling unit" means any room or group of rooms located within a dwelling forming a single habitable unit, which includes facilities for living, sleeping, cooking, eating, bathing and toilet purposes.
- (g) "Exposed to public view" means any premises, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by the public from a sidewalk, street, alleyway, open air parking lot or any adjoining or neighboring premises.
- (h) "Exterior of the premises" means those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.
- (i) "Fire Chief" means the Chief of the Fire Department.

- (j) "Fire hazard" means any thing or act which increases, or may cause an increase in, the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fires, or which may obstruct, delay or hinder, or may become the cause of an obstruction, delay or hindrance to the prevention, suppression or extinguishment of fires, or any other fire hazard identified in these Codified Ordinances. See also "Nuisance."
- (k) "Garbage" means putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. See also "Refuse" and "Rubbish."
- (l) "Immediate neighborhood" means an area separated by no appreciable space and specially denoting a limited number of properties in a very close space relationship to each other, such as properties located within the same block.
- (m) "Infestation" means the presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.
- (n) "Mixed tenancy" means any building containing one or more dwelling units or room units, one or more of which is renter occupied and one or more of which is owner occupied.
- (o) "Nuisance" means:
 - (1) Any public nuisance known in equity jurisprudence, or as provided by the statutes of the State or ordinances of the Village;
 - (2) Conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist and where the condition is made perilous by active and negligent operation thereof;
 - (3) Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this Code; and
 - (4) Fire hazards.
- (p) "Operator" means any person who has the charge, care or control of a building, structure, dwelling or premises, or a part thereof, with or without the knowledge and consent of the owner.
- (q) "Owner" means the owner of premises, including the holder of title thereto, subject to a contract of purchase, a vendee in possession, a mortgagee or receiver in possession, a lessee or joint lessees of the whole thereof or an agent or any other person or fiduciary directly in control of the premises.
- (r) "Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.
- (s) "Property Maintenance Officer" means the Building Inspector.
- (t) "Refuse" means all putrescent and nonputrescible solid wastes, except body wastes, including but not limited to garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes. See also "Garbage" and "Rubbish."
- (u) "Registered mail" means registered or certified mail.
- (v) "Rental housing code" means the Rental Housing Code of the Village.
- (w) "Rental housing property" means any dwelling unit consisting of one or more rental housing units, and the lot, plot or parcel of land on which the dwelling unit sits, including all accessory buildings or structures.
- (x) "Rental housing unit" means any dwelling unit or rented room within a single-family, duplex and two-family dwelling, and the third floor of any two-family dwelling, where either of the following conditions exist:

- (1) Consideration in the form of money or other valuable consideration is being paid for occupying such rental units; or
- (2) A person other than the fee simple owner of the property or his family as defined by Section 1260.07 of the Zoning Code is occupying such rental unit, whether or not such person is paying consideration.

The term "rental housing unit" does not include a room for rent in a hotel as defined by Section 1260.07 of the Zoning Code.

- (y) "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, tin cans, yard clippings, leaves, wood, glass, crockery and similar materials. See also "Garbage" and "Refuse."
 - (z) "Structure" means a combination of any materials, fixed or portable, forming a construction.
 - (aa) "Weathering" means deterioration, decay or damage caused by exposure to the elements.
- (Ord. 122-01. Passed 12-19-01.)

1491.05 APPLICATION OF CHAPTER; CONFLICTS OF LAWS; PERMITS AND LICENSES; COMPLIANCE WITH OTHER ORDINANCES.

(a) Application of Chapter. Every rental housing property shall comply with the provisions of this Code, whether or not such rental housing property shall have been constructed, altered or repaired before or after the enactment of this Code, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the rental housing property or for the installation or repair of equipment or facilities prior to the effective date of this Code. This Code establishes minimum standards for the initial and continued occupancy and use of all such rental housing properties and does not replace or modify standards otherwise established for the construction, repair, alteration or use of all dwelling structures, except as provided in division (b) of this section. Where there is mixed tenancy, rental or non-rental use therein shall be nevertheless regulated by and subject to the provisions of this Code as well as those standards established with regard to all dwelling structures.

(b) Conflicts of Laws. In any case where the provisions of this Code impose a higher standard than that set forth in any other ordinance of the Village or under the laws of the State, then the standards as set forth herein shall prevail, but if the provisions of this Code impose a lower standard than that of any other ordinance of the Village or under the laws of the State, then the higher standard contained in any such other ordinance or law shall prevail.

(c) Permits and License. After the date of enactment hereof, all licenses and permits shall be issued upon compliance with this Code, as well as compliance with the ordinances under which such licenses and permits are granted.

(d) Compliance with Other Ordinances. No license or permit or other certification of compliance with this Code shall constitute a defense against any violation of any other ordinance of the Village applicable to any structure or premises, nor shall any provision herein relieve any owner, operator or occupant from complying with any such other provision, nor any official of the Village from enforcing any such other provision.

(Ord. 122-01. Passed 12-19-01.)

1491.06 DUTIES AND RESPONSIBILITIES OF OWNERS, OPERATORS AND AGENTS.

(a) Owners, operators, and their agents shall have all the duties and responsibilities as prescribed in this Code and the regulations promulgated pursuant thereto, and no owner, operator or agent shall be relieved from any such duty and responsibility, nor be entitled to defend against any charge of a violation thereof, by reason of the fact that the occupant is also responsible therefor and in violation thereof.

(b) Unless expressly provided to the contrary in this Code, the respective obligations and responsibilities of the owner, operator or agent on one hand, and the occupant on the other, shall not be altered or affected by an agreement or contract by and between them or between them and other parties. (Ord. 122-01. Passed 12-19-01.)

1491.07 GENERAL MAINTENANCE REQUIREMENTS.

(a) All dwelling structures, rental housing units and all parts thereof, both exterior and interior, shall be maintained in good repair and shall be capable of performing the function for which such structure or part or any feature thereof was designed or intended to be used.

(b) All equipment and facilities appurtenant to a dwelling structure or rental housing unit shall be maintained in good and safe working order. (Ord. 122-01. Passed 12-19-01.)

1491.08 MAINTENANCE RESPONSIBILITIES.

(a) Owner. The owner of every rental housing property, or his appointed agent, shall be responsible for maintaining in a clean and sanitary condition the shared or common areas of the premises.

(b) Occupant. The occupant of a rental housing unit in any dwelling structure shall be responsible for maintaining in a clean and sanitary condition that part of the rental housing unit, dwelling, structure or premises which he or she occupies and controls. (Ord. 122-01. Passed 12-19-01.)

1491.09 EXTERIOR MAINTENANCE.

The exterior of all rental housing properties shall be kept free from all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and free from unsanitary conditions. It shall be the duty of the owner, operator or agent to keep the premises free from hazards and to ensure the following:

- (a) That the premises are kept free of debris and/or rubbish;
- (b) That the landscaping be maintained so that lawns, hedges and bushes shall not become overgrown and unsightly, including but not limited to:
 - (1) Maintenance of grass to no more than six inches tall;
 - (2) Maintenance and trimming of all plantings and trees;
 - (3) Keeping the premises free of noxious weeds; and
 - (4) Keeping the premises free of diseased trees;

- (c) That the premises are kept free from infestation by insects, vermin or rodents;
 - (d) That any dwelling, garage or other structure on the premises is kept free of the following:
 - (1) Peeling or chipping paint;
 - (2) Damaged and/or deteriorated windows, including broken or missing glass and/or screens;
 - (3) Damaged and/or deteriorated gutters and downspouts;
 - (4) Missing and/or deteriorated roof shingles; and
 - (5) Damaged and/or deteriorated masonry walls and/or chimneys;
 - (e) That all yards, courts or lots are kept free from unsightly materials not appropriate to the area, and debris which may cause a fire hazard or may act as a breeding place for insects, vermin or rodents, including but not limited to junk vehicles, appliances and/or home furnishings;
 - (f) That vehicles are parked only on designated driveways;
 - (g) That all accessory structures on the premises, including sheds and outbuildings, are properly maintained;
 - (h) That all fences on the premises are properly maintained; and
 - (i) That all concrete driveways, walkways and patios are not raised more than one inch, and are not cracked larger than one-half inch.
- (Ord. 122-01. Passed 12-19-01.)

1491.10 INTERIOR MAINTENANCE; GENERAL.

The interior of all rental housing properties, and the interior of all accessory structures on the premises shall be kept free from all nuisances and any hazards to the safety of occupants and other persons utilizing the premises, and free from unsanitary conditions. It shall be the duty of the owner, operator or agent to keep the premises free from hazards and to ensure the following:

- (a) That all interior walls and ceilings are free of holes, large cracks, and loose material;
 - (b) That foundation walls are structurally sound and in good repair, including but not limited to:
 - (1) Maintenance in such a condition as to prevent seepage or leakage of water into the space enclosed within such foundations; and
 - (2) Maintenance in such a condition as to protect any and all openings into the foundations of any dwelling structure against the entrance of rodents.
 - (c) That interior walls, floors and ceilings are structurally sound;
 - (d) That at least one functional smoke detector is installed on each floor level of each dwelling unit;
 - (e) That at least one functional carbon monoxide (CO) detector be installed in each dwelling unit;
 - (f) That handrails be installed in all stairways;
 - (g) That floor coverings, either carpet, tile, linoleum or hardwood, be installed in all areas; and
 - (h) That all exterior doors and windows are:
 - (1) Operational;
 - (2) Equipped with working locks; and
 - (3) Well-sealed.
- (Ord. 122-01. Passed 12-19-01.)

1491.11 BEDROOM RESTRICTIONS.

The owner, operator or agent of a rental housing property shall ensure that:

- (a) Each bedroom, or room used for sleeping purposes, has at least one openable window or exterior door approved for emergency escape or rescue. The units must be operable from the inside to a full clear opening without the use of a key, tool, or special knowledge;
- (b) No more than three persons occupy any one bedroom or room used for sleeping purposes; and
- (c) No accessory heating equipment or heating appliance is permitted in any bedroom, or any room used for sleeping purposes.

(Ord. 122-01. Passed 12-19-01.)

1491.12 REQUIRED RENTAL HOUSING UNIT FACILITIES.

The owner, operator or agent of a rental housing property shall ensure that:

- (a) Each rental housing unit is provided with not less than the following sanitary facilities contained within a room which shall afford privacy to any occupant thereof:
 - (1) One toilet;
 - (2) One sink; and
 - (3) One bathtub or shower.
- (b) Each rental housing unit is provided with one and only one complete kitchen or kitchenette with approved cooking, refrigeration and sink facilities:
 - (1) No such kitchen facilities shall be placed within any water closet compartment or within any bathroom.
 - (2) Communal kitchens are prohibited.

(Ord. 122-01. Passed 12-19-01.)

1491.13 CONNECTION OF FIXTURES.

The owner, operator or agent of a rental housing property shall ensure that:

- (a) All plumbing fixtures in the dwelling structure are supplied with running water from the municipal water supply system;
- (b) Each rental housing unit has an approved supply of running hot water properly connected to all plumbing fixtures normally requiring hot water;
- (c) All plumbing fixtures in the dwelling structure are designed and installed as to prevent contamination of the water supply system;
- (d) All plumbing fixtures in the dwelling structure are connected to a public or private sanitary sewer system;
- (e) Each dwelling structure and/or rental housing unit has a properly vented water heater which is in good and safe working order; and
- (f) All drain, waste and vent piping must be sealed and in good condition.

(Ord. 122-01. Passed 12-19-01.)

1491.14 ELECTRICAL REQUIREMENTS.

Every rental housing property shall be provided with electrical service, outlets, and fixtures, which shall be installed and maintained so as to be free of any potential source of ignition of combustible material or any potential source of electrical hazard. In addition, the owner, operator or agent of each rental housing property shall ensure each of the following:

- (a) The main disconnect must be identified and all fuses or circuit breakers labeled; the electrical system must have a proper system ground and bonding of all sub-panels; all main and sub-panels must have covers securely fastened and have all knockout holes sealed; proper fitting must be used for conductors entering panels; proper 15 and 20 amp. type S (non-tamperable) fuses must be used, depending on wire size for that circuit;
 - (b) One circuit per fuse/breaker (no double lugging);
 - (c) That all wiring conforms to Building Code specifications and is in safe condition;
 - (d) That all fixtures are electrically safe and mounted securely;
 - (e) That all receptacles in bathrooms are GFCI (ground fault circuit interrupter) protected;
 - (f) That all receptacles above kitchen counter surfaces are GFCI protected;
 - (g) That there is at least one dedicated circuit to kitchen receptacles; and
 - (h) That there is at least one switched light fixture or outlet per room.
- (Ord. 122-01. Passed 12-19-01; Ord. 42-02. Passed 5-7-02.)

1491.15 HEATING CAPACITY.

Every rental housing unit shall be provided with approved heating facilities capable of maintaining an average temperature of 70°F in all habitable rooms, kitchens, bathrooms and water closet compartments when the outdoor temperature is -5°F, without forcing facilities to operate in excess of their design capacity.

(Ord. 122-01. Passed 12-19-01.)

1491.16 HEATING REQUIREMENTS.

(a) The owner, operator or agent in charge of a rental housing property who rents or leases any dwelling unit therein under an agreement, express or implied, to supply or furnish heat to the occupants thereof, shall ensure that the heating system is safe, properly installed, and capable of being operated from a central thermostat.

(b) Gas Burning System. Where a gas burning heating system is used, the owner, operator or agent in charge of the dwelling structure shall ensure:

- (1) That the gas burning system is vented safely and properly; and
- (2) That the gas burning system supply piping is properly connected and installed.

(c) Electrical Heating. Where an electrical heating system is used, the owner, operator or agent in charge of the dwelling structure shall ensure:

- (1) That the electrical heating system is wired properly; and
- (2) That the electrical heating system is in safe operating condition.

(Ord. 122-01. Passed 12-19-01.)

1491.17 BUILDING INSPECTOR AS PROPERTY MAINTENANCE OFFICER.

(a) The Building Inspector is hereby designated to serve as the Property Maintenance Officer. All inspections, regulations, enforcement and hearings on violations of the provisions of this Code, unless expressly stated to the contrary, shall be under his or her direction and supervision. He or she may appoint or designate, subject to the approval of the Mayor, such other public officials or employees of the Village to perform such duties as may be necessary for the enforcement of this Code, including inspections.

(b) Promulgation of Rules and Regulations. The Property Maintenance 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, or any of other chapter of these Codified Ordinances, and that they conform to the general standards prescribed by this Code. The Property Maintenance Officer shall file copies of such rules and regulations with the Clerk/Treasurer, the Municipal Engineer, the Fire Chief, the Public Building Committee of Council and the Board of Zoning Appeals, and shall make available in the Officer's office a copy for inspection by members of the public during regular business hours. Such rules and regulations shall have the approval of the Engineer and the Fire Chief, respectively, where the provisions thereof relate to matters which are also under the jurisdiction of the supervision of each officer. In the case of a conflict, the rule or regulation may be promulgated by direction of the Public Building Committee of Council. Such rules and regulations shall have the same force and effect as the provisions of this Code, and the violations thereof shall be enforced as violations of the express provisions of this Code as herein provided.

(Ord. 122-01. Passed 12-19-01.)

1491.18 INSPECTIONS.

(a) All rental housing properties are subject to inspection by the Property Maintenance Officer every 5 years and/or at each change of tenant. At the time of such inspection, all interior and exterior parts of the rental housing property must be available and accessible for such inspection, and the owner, operator, agent, and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made between 8:00 a.m. and 4:00 p.m., unless one of the following conditions exists:

- (1) The premises are not available during the foregoing hours for inspection; or
- (2) There is reason to believe that a violation exists of a character which is an immediate threat to health or safety, requiring inspection and abatement without delay.

(b) Where a rental housing property consists of more than one rental housing unit, and inspection is required due to a change in tenancy rather than the 5-year inspection, those rental housing units in the rental housing property in which no change in tenancy has occurred will not be subject to inspection unless otherwise required under this Code. Rental housing units in which no change in tenancy has occurred remain subject to the 5-year inspection.

(Ord. 122-01. Passed 12-19-01; Ord. 92-2003. Passed 10-7-03.)

1491.19 CONDUCT OF INSPECTORS.

Inspectors shall conduct themselves in such a manner as to avoid intentional embarrassment of or inconvenience to occupants.

(Ord. 122-01. Passed 12-19-01.)

1491.20 REQUESTED INSPECTION AND STATUS REPORTS.

(a) Application for Inspection. Whenever an owner, operator, agent, occupant, bona fide prospective purchaser, mortgagee or bona fide prospective occupant shall apply to the Property Maintenance Officer for an inspection in order to ascertain if any section of this Code has been violated, the Officer shall, upon payment of the fee hereunder stated, cause an inspection to be made of the premises and issue an information certificate or report of the inspection to the applicant, indicating therein any violations of this Code on the premises. The applicant for such inspection shall state, in writing, his or her full name, residence address and the reasons and basis for which the inspection is requested. The Officer may deny the application for failure to comply with this requirement.

(b) Application for Status Report. Where, in lieu of an inspection, an owner, operator, agent, occupant, lessee, bona fide prospective purchaser, mortgagee or bona fide prospective occupant, requests a status report as to whether or not there are any known violations presently pending on the premises, upon payment of the fee prescribed herein and a written request, a copy of any notice or order on any violation then pending shall be sent to the applicant.

(c) Fees for Inspection or Status Report.

- (1) The minimum fee for any inspection made under division (a) of this section shall be thirty-five dollars (\$35.00), except that there shall be no fee for any initial reinspection. Dwelling structures of more than one dwelling unit shall pay one fee of thirty-five dollars (\$35.00).
- (2) The fee for any status report under division (b) of this section shall be ten dollars (\$10.00).
- (3) The thirty-five dollar (\$35.00) inspection fee will be waived for those property owners over the age of 75 at the time of the inspection.

(Ord. 122-01. Passed 12-19-01; Ord. 92-2003. Passed 10-7-03.)

1491.21 REFUSED ACCESS; SEARCH WARRANTS OR ACCESS WARRANTS.

(a) Refused Access. Where the Property Maintenance Officer or his or her agent is refused access or is otherwise impeded or prevented by the owner, operator, occupier or agent from conducting an inspection of a rental housing property, such person shall be in violation of this Code and subject to the penalties hereunder.

(b) Search Warrants or Access Warrants. In addition to the provisions of division (a) of this section, the Property Maintenance Officer may, upon affidavit, apply to Parma Municipal Court 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. If the Court is satisfied as to the matter set forth in the affidavit, the Court may 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. A warrant for access may be issued by the Court upon an affidavit of the Property Maintenance Officer establishing grounds therefor.

(Ord. 122-01. Passed 12-19-01.)

1491.22 REGISTRATION OF RENTAL HOUSING PROPERTIES; TENANTS.

(a) The owner, operator and/or agent of any rental housing property within the Village shall, upon a form provided therefor by the Property Maintenance Officer and available at his or her office, register the premises by designating thereon the name and address of the owner, operator, and the name and address of an agent in charge of the premises residing in the Municipality who may be the owner, operator, lessor or agent. If there shall be more than one person as the owner, operator, and/or agent, then a separate or single combined registration may be filed, as such persons may elect.

(b) The owner, operator, and/or agent of any rental housing property within the Village shall, upon a form provided therefor by the Property Maintenance Officer and available at his or her office, register each tenant of each rental housing unit within the dwelling structure.

(Ord. 122-01. Passed 12-19-01.)

1491.23 CERTIFICATE OF OCCUPANCY.

(a) No person shall occupy, and no owner or resident agent shall permit a person to occupy a rental housing unit unless the Property Maintenance Officer has issued to the owner or resident agent a certificate of occupancy for such rental unit.

(b) (1) Application for a certificate of occupancy shall be made separately for each rental unit by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the Property Maintenance Officer. Such information shall include but need not be limited to the following:

- A. The name, address and telephone number of the owner of the rental housing property;
- B. The name, address and telephone number of the resident agent of the rental housing property if one is required;
- C. The address of the rental housing property and the number of rental units contained within the rental housing property;
- D. The current name, address, business and/or home telephone number, and social security number of the persons who, since the last application, have been occupying the rental housing unit, and the address or other identification of the rental housing unit which they occupied;
- E. The familial relationship, if any, among the persons listed in division (b)(1)D. of this section;
- F. In the case of a third floor rental housing unit, a statement that no person who occupies the third floor rental housing unit stores, cooks or otherwise prepares food in the third floor rental housing unit or other common area; that such activities shall not be permitted; and that appliances or equipment which are used for such activities are not being provided or permitted on the premises;
- G. The name of the head of the household of each rental housing unit;
- H. A statement that the information is necessary for tax purposes; and
- I. Such other information as may be requested on a voluntary basis.

- (2) The Property Maintenance Officer shall issue a certificate of occupancy for a separate third floor rental housing unit within a two-family dwelling structure only when the certificate of occupancy has been renewed continuously without expiration or termination in accordance with this section.
 - (3) The Property Maintenance Officer may revoke a certificate of occupancy if any false statement appears in the application or if the information contained in the application is inaccurate.
- (c) (1) Every application for a certificate of occupancy or a renewal thereof shall be accompanied by an application fee of ten dollars (\$10.00). Such fee shall be waived if the application is filed within the 30-day period specified in division (c)(3) of this section.
- (2) A certificate of occupancy shall expire 5 years from the date of its issuance, or from the date of commencement of occupancy, whichever date is earlier.
 - (3) An application for renewal of a certificate of occupancy shall be submitted to the Property Maintenance Officer no earlier than 30 days prior to the expiration date of the certificate and no later than the expiration date.
- (Ord. 122-01. Passed 12-19-01; Ord. 92-2003. Passed 10-7-03.)

1491.24 FREQUENCY AND SCHEDULE OF INSPECTIONS.

(a) The Property Maintenance Officer is hereby directed to conduct an inspection of all rental housing units, as defined in Section 1491.04, in single-family and two-family dwelling structures, except the interior of an owner-occupied dwelling unit, at least once every 5 years, and at each change of tenant, according to a schedule established by him. The Property Maintenance Officer may require an inspection and a certificate of housing inspection as a condition to the issuance of a certificate of occupancy pursuant to Section 1491.20. However, no inspection will be required if a certificate of housing inspection has been issued pursuant to Section 1491.20 for the same structure within 5 years preceding the date the structure would have been inspected under the schedule established by the Property Maintenance Officer. Pursuant to such schedule, the Property Maintenance Officer shall notify the owner of any rental unit, as defined in Section 1491.04, in single-family and two-family dwelling structures to be inspected, or his or her agent, that arrangements must be made with the Housing Inspection Department for an agent, upon consent, to cause the entire structure to be accessible for inspection at the time arranged, which shall be during regular business hours. If the owner, operator, agent, or occupant refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the Property Maintenance Officer or his or her designated representative shall not make such inspection without first obtaining a search warrant. The above required 5-year inspection of single-family homes may be waived by the Property Maintenance Officer upon the submission of the affidavit of the owner that:

- (1) The rental is temporary, i.e., not for more than one year;
- (2) The owner has moved out of the Cuyahoga County area and intends to return to reside on the property within the designated time; and
- (3) The name, address and telephone number of a resident agent who lives in Cuyahoga County who may be served with a notice of violations and who will be responsible for property maintenance is provided. The waiver of the inspection requirement may be revoked by the Property Maintenance Officer should the owner fail to comply with the requirements or should it be apparent that the rental is no longer temporary.

The waiver of the inspection requirement may be revoked by the Property Maintenance Officer should the owner fail to comply with the requirements or should it be apparent that the rental is no longer temporary.

(b) The Property Maintenance Officer is hereby directed to conduct an inspection of the third floor of every two-family dwelling structure, which third floor is a nonconforming use under the Zoning Code or Housing Code, at least once every 5 years according to a schedule established by him, where such third floor has been occupied by a roomer at any time during the 5-year period prior to the date of inspection. Such inspection will not be required if a certificate of housing inspection has been issued pursuant to Section 1491.20 for the same structure within 5 years previous to the date the structure would have been inspected under the schedule established by the Property Maintenance Officer, or if the owner or agent indicates in writing to the Property Maintenance Officer that the third floor has ceased to be occupied by a roomer and that such use has been permanently abandoned. The method of inspection and notice shall be provided in division (a) of this section.

(Ord. 122-01. Passed 12-19-01; Ord. 92-2003. Passed 10-7-03.)

1491.25 CERTIFICATE OF HOUSING INSPECTION.

Upon inspection of the rental housing unit, the Property Maintenance Officer shall issue a certificate of housing inspection. Except in the case of immediate danger to the public health or safety, the certificate of housing inspection shall contain the order of the Property Maintenance Officer for the correction of any code violations noted on the certificate, which shall be corrected by the property owner in a time period not to exceed ten days of the issuance of the certificate, unless for good cause shown, the Property Maintenance Officer has extended the time for such completion. Issuance by the Property Maintenance Officer of a certificate of inspection shall service as notice of violation.

(Ord. 122-01. Passed 12-19-01.)

1491.26 CERTIFICATE OF NECESSITY.

(a) Who May Apply. Any owner, operator or occupant who is required to make repairs or otherwise improve his or her rental housing property and is unable to comply with this Code without having a right of access to the building or premises through or across an adjoining premises not owned by him or her or under his or her control, and the right of access has been refused the owner, operator or occupant, or the owner or person responsible for granting permission cannot be found or located, upon the filing of an affidavit setting forth such facts with the Property Maintenance Officer, the Officer shall serve a 5-day written notice of a hearing upon the owner, operator or occupant of such adjoining premises affected by the application.

(b) Hearing. On the day fixed for the hearing, the Board of Zoning Appeals shall provide an opportunity for the owner, operator or occupant of the adjoining property or properties to state why access should not be granted across the adjoining property or properties.

(c) Issuance of Certificate; Conditions. If the Board of Zoning Appeals determines that access is deemed absolutely necessary to accomplish or complete repairs or improvements necessary for compliance with this Code, then the Board shall issue a certificate of necessity, setting forth therein the person to whom

the certificate shall apply, such conditions as shall be necessary to protect the adjoining property, reasonable time limits during which such certificate shall operate, precautions to be taken to avoid damages and, where the Board deems proper, a bond to be procured at the expense of any person seeking access to insure the adjoining property against damage to persons or property arising out of such right of access. The bond shall not exceed an amount of ten thousand dollars (\$10,000.00), unless conditions deemed advisable by the Board appear otherwise, and the amount set shall take into consideration the extent, nature and duration of the repairs, the proximity of the improvement to the premises affected and the potential risk of damage thereto. The bond shall be filed with the Property Maintenance Officer.

(d) Procedure Where Access is Refused. Any refusal to comply with this section, or any interference with access to premises pursuant to a certificate issued hereunder, shall be a violation of this Code, and, in addition to penalties provided hereunder, the Property Maintenance Officer may, upon an affidavit, apply to the Parma Municipal Court for a warrant under the procedure set forth in Section 1490.16(b), authorizing access to the premises under appropriate conditions and circumstances as provided under division (c) of this section.

(Ord. 122-01. Passed 12-19-01.)

1491.27 PROCEDURE FOR ABATEMENT; NOTICE; APPEAL.

(a) The certificate of housing inspection, as provided for in Section 1491.25, shall specify the violation committed, what must be done to correct the same, a period of ten days to correct or abate the violation, and the right of the person served to request a hearing. The notice shall become an order of the Property Maintenance Officer 5 days after service, unless a hearing is requested pursuant to division (c) of this section.

(b) Service of Notice. The issuance of a certificate of housing inspection shall serve as notice to the owner or operator of a violation of this Code. Issuance of a certificate of housing inspection shall be effectuated by personal service, by prepaid telegram or by mail, with postage prepaid, addressed to the last known address of the person to be served. Where it is ascertained that the owner or operator to whom the certificate of housing inspection is directed does not reside on the premises, the last known address shall be the address of the owner as shown in the office of the County Auditor. If the last known address cannot be ascertained, the certificate of housing inspection may be posted on the outside front entrance of the building. The Property Maintenance Officer shall file and provide notice to any owner, operator or agent of any violation at any address other than the last known address as provided hereunder if such other address is filed with the Officer personally or by certified mail addressed to the Officer. The date of service of the notice shall be determined where service is by mail as of the day following the day of mailing for notices to addresses within the Village, and as of the fourth day after the day of mailing for notices to addresses outside the Village. 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. Notwithstanding any other provisions contained herein, where premises are subject to registration pursuant to Section 1491.22 and have been so registered, notice served upon the agent designated therein shall constitute service upon the owner, operator and lessor of the premises, jointly and severally. Where the owner,

operator or lessor has failed to register the premises as required under Section 1491.22, or if the present premises have been registered and the agent designated therein cannot be found at the address given in the registration, the owner, operator or lessor affected thereby may be served by posting the certificate of housing inspection upon the premises in a conspicuous place as near as possible to the front entrance thereof.

(c) When Notice Becomes a Final Order; Request for Hearing. Within five days of the date of service of a certificate of housing inspection, the certificate shall constitute a final order, unless any person affected by the notice requests a hearing before the Board of Zoning Appeals and serves a written request within the five-day period, in person or by mail, on the Chairperson of the Board. Such request for a hearing before the Board 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 to be disputed at the hearing. The Chairperson of the Board, upon receipt of the request, shall, within ten days therefrom and upon five days notice to the party aggrieved, set the matter down for hearing.

(d) Determination at Hearing. At any hearing provided hereunder, the Chairperson of the Board 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 subpoenas, 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 or her and to enforce any such subpoena or secure any order for the enforcement of any such subpoena as provided by law. Determination shall be made within ten days from the completion of the hearing. The Board shall issue an order either incorporating the determinations and directions contained in the certificate of housing inspection, modifying the same or withdrawing the certificate of housing inspection.

(e) Extension of Time. The Property Maintenance Officer may extend the time for correction or abatement of the violations for an additional period of time not to exceed ten days, except where major capital improvements or renovations are involved, in which instance the time for completion may be extended for a period not to exceed 30 days beyond the expiration date of the original certificate of housing inspection.

(f) Noncompliance With Notice.

- (1) Whenever the owner, agent, occupant or operator of a structure or premises fails, neglects or refuses to comply with any certificate of housing inspection of the Property Maintenance Officer that becomes a final order as provided in division (c) of this section, the Officer or such designated representative may issue a notice to such owner, agent, occupant or operator ordering the structure or premises, or part thereof, to be vacated, repaired or improved within such time as shall be stated in such notice, but which shall be not less than ten days, except in cases of emergency, or the Property Maintenance Officer may advise the Law Director of the circumstances and request the Law Director to institute an appropriate action at law to compel compliance. Such notice shall be provided in accordance with division (b) and (c) of this section.

- (2) Whenever the owner, operator, occupant or agent of a structure or premises fails, neglects or refuses to comply with a notice to vacate issued by the Property Maintenance Officer, the Officer may enforce the orders of such notice of vacation and cause the structure or premises, or part thereof, to be vacated in accordance with the terms of such notice.
- (3) Whenever the owner, operator, or agent of a structure fails, neglects or refuses to comply with a notice to demolish such structure, issued in accordance with the provisions of this Code, and when such a structure or part thereof is determined by the Property Maintenance Officer to constitute a public nuisance in that it is dangerous or injurious to the public health, safety or welfare, the Property Maintenance Officer may request the Law Director to institute legal proceedings or take other action as may be necessary to abate the nuisance. The Property Maintenance Officer shall further give notice informing the owner, operator or agent of such determination and action. Such notice shall be provided in accordance with division (b) and (c) of this section.
- (4) Any owner of any such property as to which such an order or notice to repair, improve, demolish or vacate has been issued shall not sell or enter into an agreement to sell or lease such property for longer than one year unless such order of the Property Maintenance Officer has been disclosed and displayed to the prospective purchaser or lessee, or unless such owner has received notice from the Officer of satisfactory compliance with such order or notice from the Officer or other duly constituted authority that such order has been withdrawn or canceled.

(g) Referral of Violations. A violation of any ordinance other than this Code discovered by the Property Maintenance Officer or his or her representative shall be reported to the official or agency responsible for the enforcement of such ordinance.

(h) Where Notice and Hearing Not Required Prior to Court Proceedings. Notwithstanding the requirements of division (a) through (d) of this section, violations of the following sections may be prosecuted without notice by the filing of a complaint by the Property Maintenance Officer in the Parma Municipal Court: Sections 1490.16, 1490.17(d) and 1490.22.

(i) Effect of Notice on Owner. For the purposes of enforcement of this Code, the service of a certificate of housing inspection on an owner, whether or not the owner is also the operator, shall constitute notice of violations set forth therein until such violations are abated in conformity with this Code and other applicable ordinances of the Village.
(Ord. 122-01. Passed 12-19-01.)

1491.28 CASES OF EMERGENCY.

Whenever, in the opinion of the Property Maintenance Officer, the condition of a structure or premises, or part thereof, constitutes an immediate hazard to human life or health, he shall declare a case of emergency and shall order immediate vacation of the structure or premises or part thereof. Such notice shall be served in the manner provided in Section 1491.27 (b) and (c), but shall require immediate compliance.

(Ord. 122-01. Passed 12-19-01.)

1491.29 PLACARDS.

Whenever the Property Maintenance Officer orders a structure or premises, or part thereof, to be vacated, the Officer shall cause to be posted at each entrance to such structure or premises, or part thereof, a placard warning of the existence of such vacation order. No person shall deface or remove such placard without the written permission of the Property Maintenance Officer until the repair or demolition is completed. No person shall enter or use any structure or premises so placarded except for the purpose of making the required repairs or demolishing the structure or premises.
(Ord. 122-01. Passed 12-19-01.)

1491.30 COMPLIANCE.

(a) Pre-Existing Rental Housing, Properties. Owners, operators and agents of rental housing properties which existed prior to the effective date of this Code shall have 90 days from the effective date of this Code in which to comply with its provisions.

(b) New Rental Housing Properties. Owners, operators and agents of properties which become rental housing properties on or after the effective date of this Code shall have 90 days from the change of the use of the property from non-rental housing to rental housing in which to comply with the provisions of this Code.

(Ord. 122-01. Passed 12-19-01.)

1491.99 PENALTY; EQUITABLE REMEDIES.

(a) Penalty. Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor in the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Application to Officers or Agents. Where the defendant is other than a natural person, division (a) of this section shall also apply to any agent, superintendent, officer, member or partner who shall, alone or with others, have the charge, care or control of the premises.

(c) Other Legal Action. The imposition of any penalty shall not preclude the Law Director from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance; to restrain, correct or abate a violation; to prevent the occupancy of a dwelling, building, structure or premises; or to require compliance with the provisions of this chapter of other applicable laws, ordinances, rules or regulations or with the orders or determinations of the Property Maintenance Officer or the Board of Zoning Appeals.

(Ord. 122-01. Passed 12-19-01.)

