

## CHAPTER 11 PROPERTY MAINTENANCE & OCCUPANCY CODE

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### SECTION 4-11-1 GENERAL PROVISIONS

- A. Title. This chapter shall be known as the City of West Peoria Property Maintenance and Occupancy Code.
- B. Scope. The provisions of this chapter shall apply to all existing residential and nonresidential buildings, structures, dwellings or parts thereof, as herein defined, and shall constitute the minimum requirements for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, and protection from elements.

The provisions of this chapter shall constitute minimum standards to all existing residential and nonresidential buildings, structures, dwellings or parts thereof, as herein defined, so as to eliminate conditions hazardous to the public health, safety and welfare within the City, as defined herein; and shall constitute minimum responsibilities of owners, operators and occupants concerning the occupancy of existing structures and premises.

The provisions of this chapter shall apply uniformly to the construction, maintenance, use and occupancy of all buildings, structures and dwellings, and shall apply uniformly to all alteration, repair, equipment, use, occupancy and maintenance of all existing buildings, structures and dwellings within the City, irrespective of when or under what code or codes such buildings, structures or dwellings were originally constructed, rehabilitated or renovated.

- C. Declaration of Legislative Purposes. In recognition that the physical condition of a person's property has consequences beyond the lot upon which the property is located, this chapter is adopted for the following purposes:
1. To promote the public health, safety, morals, comfort and general welfare of the citizens of the City;
  2. To enhance the values of the property throughout the City;
  3. To protect and stabilize the general appearance of buildings, structures, dwellings, landscaping and open areas in the City;
  4. To ensure adequate light, air and privacy for property in the City;
  5. To encourage and promote acceptability, attractiveness, cohesiveness and

compatibility of buildings, structures and dwellings so as to maintain and improve the established property values within the City;

6. To preserve and promote the physical and mental health and social well-being of the people, to prevent and control incidence of communicable diseases, to reduce environmental hazards and to ensure safety from fire and accidents;

7. To prevent and control blight;

8. To determine the responsibilities of owners, operators and occupants of buildings, structures and dwellings within the City;

9. To provide for the administration and enforcement thereof.

#### SECTION 4-11-2 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Accessory building" means a detached building which is secondary or subordinate to a principal building; and is subordinate in area, extent or purpose to the principal building; and contributes to the comfort, convenience or necessity of occupants of the principal building; and is temporarily or permanently located in the same zoning lot as the principal building served.

"Apartment" means a dwelling unit having both bathroom and kitchen facilities.

"Appropriate authority" means that person within the governmental structure of the corporate unit who is charged with the administration of the appropriate code.

"Approved" means approved by the local, state or federal authority having such administration authority.

"Ashes" means all ashes of wood, coal, coke, charcoal and/or residue resulting from the combustion of any material or substance.

"Attic" means any story situated wholly or partly within the roof, and so designed, arranged or built as to be used for storage or habitation.

"Attractive nuisance" means any building, structure or dwelling or part thereof and/or the exterior property surrounding such building, structure or dwelling or any vacant/abandoned building, structure or dwelling or property left in an unsightly, dilapidated, deteriorated or neglected condition, such building, structure or dwelling or premises is an attractive nuisance if it is detrimental to the public health, safety and welfare.

"Basement/cellar" means a portion of a building, structure or dwelling having at least one-half or more of its height below the finished lot grade level.

"Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels, or personal property of any kind, such as a house, factory, garage or shed and including temporary housing as defined herein.

"Bulk container" or "dumpster" means any metal garbage, rubbish and/or refuse container having a capacity of two cubic yards or greater and that which is equipped with fittings for hydraulic and/or mechanical emptying, unloading and/ or removal.

"Central heating system" means a single system supplying heat to one or more dwelling units or more than one rooming unit.

"Chimney" means a vertical shaft of reinforced concrete or other approved noncombustible, heat resisting material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid or gaseous fuel; must be in conformance with existing City fire codes.

"Code enforcement officer" means any employee(s) of the City designated by ordinance for the enforcement of this code.

"Dangerous buildings" for purposes of this maintenance code, means all buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

1. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
2. Those which, exclusive of the foundation, show thirty-three (33) percent or more of damage or deterioration of the supporting members, or thirty-three (33) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering;
3. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
4. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City;
5. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;
6. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of departure;
8. Those which have parts thereof which are so attached that they may fall and injure members of the public or property;
9. Those which, because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the City;

"Deterioration" means the condition or appearance of a building, structure or dwelling characterized by holes, breaks, rock crumbling, cracking, rusting, peeling paint or other evidence of physical decay or neglect, excessive use or lack of maintenance.

"Dilapidated" means a building, structure or dwelling or part thereof which is in a state of ruin or shabbiness resulting from neglect. The term implies a hazard to life or property or no longer adequate for the purpose or use for which it was originally intended.

"Dormitory" means a building or group of rooms in a building used for institutional living and sleeping purposes by four or more persons.

" Dwelling" means any enclosed space wholly or partly used or intended to be used for living and sleeping, cooking and eating; provided, that temporary housing as hereinafter defined shall not be classified as a dwelling.

1. "One-family dwelling" means a building containing one dwelling unit.
2. "Two-family dwelling" means a building containing two dwelling units.
3. "Multifamily apartment" means a building or a portion thereof containing more than two dwelling units.
4. "Boarding house" or "tourist house" means a building arranged or used for lodging with or without meals for compensation, by more than five but not more than twenty (20) individuals.
5. "Rooming house" means a building or part thereof, in which sleeping quarters (but not meals or cooking facilities) are provided by prearrangement for compensation on a weekly or longer basis for three or more persons.
6. "Hotel" means any building containing six or more guest rooms intended or designed to be used, or which are occupied for sleeping purposes by guests.
7. "Motel" means any building containing guest rooms in which the rooms are usually accessible from an outdoor parking area and the rooms are intended or designed to be used, or which are occupied for sleeping purposes by guests.

"Dwelling unit" means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single-family for living, sleeping, cooking and eating purposes.

"Egress" means an arrangement of exit facilities to assure a safe means of exit from buildings, structures and dwellings.

"Existing buildings" means a building, structure or dwelling, or part thereof which has been completed and is ready for occupancy.

"Extermination" means the control and elimination of insects, rodents or other vermin or pests, by eliminating their harborage places; by removing or making inaccessible the materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods.

"Fair market value" means a price at which both buyers and sellers are willing to do business.

"Family" either:

1. Two or more persons, each related to the other by blood, marriage, or adoption, together with usual domestic servants and not more than one bona fide guest, all living together as a single housekeeping unit and using common kitchen facilities (that is, a related family); or
2. Five or fewer persons, all of whom are not necessarily related to each of the others by blood,

marriage or adoption, all living together as a single housekeeping unit and using common kitchen facilities (that is, an unrelated family).

"Flush water closet" means a toilet bowl which is flushed with water which has been supplied under pressure and equipped with a water sealed trap above the floor level.

"Garbage" means any rejected or waste household food, offal, swill land carrion and every accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruits or vegetables, and any other matter which is subject to decay, putrefaction or the generation of noxious or offensive gasses or odors, or which during or after decay may serve as breeding or feeding materials for insects, rodents or other vermin. "Garbage" also includes compostable materials, manure, miscellaneous waste and yard waste.

"Grade" means the established grade of the street or sidewalk. Where no such grade has been established, the grade shall be the elevation of the sidewalk at the property line or the crown of the street adjacent to the property line, whichever is higher. However, in cases of unusual topographic conditions as determined by the building inspector, grade shall be the average elevation of the finished surface of the ground adjoining the exterior walls of a building at the base of a structure.

"Graffiti" means an unattractive or scribbled motto or writing on any building, structure, dwelling, garage, driveway or walkway on the premises.

"Guest" means a person received and entertained at the house of another for a period no longer than thirty (30) days.

"Habitable room" means a room or enclosed floor space used or intended to be used for living or sleeping purposes, excluding kitchens, bathrooms, water closet, compartments, laundries, furnace rooms of less than seventy (70) square feet of floor space, foyers or communicating corridors, stairways, closets, storage spaces and workshops, hobby and recreation areas.

"Heated water" means water heated to a temperature of not less than one hundred twenty (120) degrees Fahrenheit at the outlet.

"Heating device" means all furnaces, unit heaters, domestic incinerators, cooking and heating stoves and ranges and other similar devices.

"Household" means one or more individuals living together in a single-family dwelling unit and sharing common living, sleeping, cooking and eating facilities. (See also "Family)."

"Impervious to water/pests" (as to floors) means a clean, smooth floor, without cracks or holes, and made of terrazzo, ceramic, wood, asphalt vinyl or rubber tile, smooth concrete, linoleum or other similar material that is completely sealed so as to be water-resistant and impervious to pests.

"Infestation" means the presence within or around a dwelling of any insects, rodents or other pests.

"Inoperable motor vehicle" means a motor vehicle from which, for a period of seven days, the engine wheels or other parts thereof are damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power.

"Junk vehicle" means any vehicle which is without a current valid license plate and/or City

vehicle sticker, and/or is in a rusted, wrecked, dismantled, partly dismantled, inoperative or abandoned condition for a period of forty-eight (48) consecutive hours.

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

"Kitchenette" means a small kitchen or an alcove containing cooking facilities.

"Lavatory" means a fixed wash bowl equipped with plumbing. Kitchen sinks do not meet this definition.

"Lead based paint" means any paint containing more lead than the level established by U.S. Consumer Product Safety Commission as being a "safe" level of lead in residential paint and paint products.

"Lease" means the transfer of occupancy rights of real property for consideration even if there is no written agreement entered into.

"Maintenance" means conformance of a building, structure or dwelling and its facilities to the code under which the building was constructed.

"Motor vehicle" means as defined by the Illinois Motor Vehicle Code and as amended from time to time, and any parts thereof.

"Multiple dwelling" means any dwelling containing more than one dwelling unit.

"Occupant" means any person living in, sleeping in or having actual possession of a building, structure or dwelling, or portion thereof.

"Operator/owner" means:

1. Any person having charge, care, management or control of any building, structure, dwelling, property or part thereof; or
2. Any person who alone or jointly or severally with others has legal or equitable title to a building, structure or dwelling, the agent of the person, any person having management or control of the building, structure or dwelling, including but not limited to a purchaser, mortgagee, receiver or lessee in possession of any building, structure or dwelling.

"Permissible occupancy" means the maximum number of individuals permitted to reside in a dwelling unit, rooming unit or dormitory.

"Person" means any natural person, firm, partnership, trust, cooperative or association. Whenever used with respect to any penalty, the term "person," as applied to partnerships, firms or associations, means the partners or members thereof.

"Pest" means a destructive or injurious insect or animal, which is harmful to humans.

"Plumbing" means and includes all of the following: gas pipes, gas burning equipment, water heating equipment, water pipes, water pipe wall plates, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, wells, septic tanks, catch basins, drains, vents and any other similarly supplied fixtures, and the installation thereof, together with all connections to water sewer, or gas lines, and as further defined in the plumbing code.

"Pre-ordinance building" means every existing building, structure or dwelling, or part thereof which was completed, or for the construction of which a permit was issued prior to the effective date of this chapter.

"Premises" means a lot, plot or parcel of land, including all buildings, structures and dwellings thereon.

"Privacy" means the existence of conditions which will permit an individual or individuals to carry out an activity without interference by either the noise or sight of unwanted individuals.

"Properly connected" means connected in accordance with all applicable codes and ordinances of the City as are in force from time-to-time; provided, however, that the application of this definition shall not require the alteration or replacement of any connection in good working order and not constituting a hazard to life or health.

"Public nuisance" means:

1. Any act, thing, physical condition, use or occupancy of any premises or its appurtenances which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, physical senses, repose or safety of the public or persons of ordinary sensibilities.
2. Any act, thing, physical condition, use or occupancy of any premises or its appurtenances which shall continue for such length of time as to substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, or other public way.
4. Any act, thing, physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, unsafe fences or structures;
5. Any premises which have unsanitary sewerage or plumbing facilities;
6. Any premises designated as unsafe for human habitation or use;
7. Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecured as to endanger life, limb or property;
8. Any premises from which the plumbing, heating and/or facilities required by the code have been removed or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided;
9. Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or
10. Any structure, building or dwelling that is in a state of dilapidation, deterioration or decay, faulty construction; overcrowded, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

"Rat harborage" means any condition or place where rats can live, nest or seek shelter.

"Rat proofing" means a form of construction which will prevent the ingress or egress of rats to or from a given space, building, structure or dwelling, or from gaining access to food, water or

harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls around first floors, roofs, sidewalk openings, and other places that may be reached and entered by rats by climbing, burrowing or other methods by the use of materials impervious to rat gnawing and other methods approved by the appropriate authority.

"Refuse" means all solids subject to decay or putrefaction (except body wastes) including garbage, rubbish, ashes and dead animals.

"Refuse container" means a water-tight container that is constructed of metal or rigid plastic or other durable material impervious to rodents, that is capable of being serviced without creating unsanitary conditions or such other containers that have been approved by the appropriate authority. Openings into the container such as covers and doors shall be tight-fitting and made of metal or rigid plastic.

"Rehabilitation" means:

1. Repairs to or replacement of, present elements of any existing building, structure or dwelling, such as windows, stairs, flooring, etc.;
2. Rearrangement of rooms, by the relocation of partitions or walls; or by the installation of new bathrooms or kitchens; or
3. The general replacement of the interior or portions of the interior of a building; structure or dwelling which may or may not include changes to structural elements such as floor systems, roof systems, columns or load bearing interior or exterior walls.

"Renovation" means a building, structure or dwelling and its facilities made to conform to present day minimum standards of sanitation, fire and life safety.

"Rodents" means rats, mice, raccoons, possums and other similar animals.

"Rooming house" means any dwelling other than a hotel or motel or that part of any dwelling containing one or more rooming units, and/or one or more dormitory rooms and in which persons either individually or as families are housed with or without meals being provided.

"Rooming unit" means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

"Rubbish" means combustible and noncombustible waste materials, except garbage; the term shall include ashes, paper, rags, cartons, boxes, wood excelsior, rubber, leather, wrappings, cans, metals, mineral matter, glass, crockery and dust; any object that is worthless or unsuitable for use.

"Safety" means the condition of being reasonably free from danger and hazards which may cause accidents or disease.

"Sale" means the transfer for consideration of the title to real estate and includes the purchase of a condominium unit or the shares on a cooperative apartment association or a corporation, or a sale of land contract, contract for deed in trust, or trust deed.

"Servant" means one who performs various duties about the dwelling unit of a personal employer.

"Service facilities" means those facilities and fixtures necessary for the supply of such required basic services as heat, electricity, hot and cold water and sewage disposal.

"Short term" means a period of time of a short duration such as a visitor visiting for a week, but not to exceed thirty (30) days.

"Space heater" means a self-contained heating appliance of either the convection type or the radiant type and intended primarily to heat only a limited space or area such as one room or two adjoining rooms.

"Structure" means that which is built or constructed, including without limitation because of enumeration, buildings or dwellings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes/stairways, chute escapes railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

"Supplied" means paid for, furnished by, provided by, or under the control of the owner, operator or agent.

"Temporary housing" means any tent, trailer, mobile home or any other structure used for human habitation which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30) days.

"Tenant" means a person, persons, co-partnership, firm or corporation occupying or using a building, structure, dwelling or premises or any part or parts thereof owned by another.

"Toxic substance" means any chemical product applied on the surface of or incorporated into any structural or decorative material which constituted a potential hazard to human health at acute or chronic exposure levels, as defined by the Illinois Environmental Protection Agency or the United States Environmental Protection Agency, which is modified as new substances are developed.

"Trash" means the same definition as "Rubbish" defined herein.

"Unsanitary conditions" means a condition constituting a danger or hazard to the health of a person or persons occupying or frequenting a building, structure, dwelling or premises, or to the general public.

"Variance" means a difference between that which is required or specified and that which is a grant of relief from what is required or specified by the appropriate authorities.

"Ventilation" means the process of supplying and removing air by natural or mechanical means to or from any space.

"Yard" means an open space, on the same zoning lot with a building, structure or dwelling unoccupied and unobstructed from its lowest level to the sky, except as may otherwise be permitted in the City zoning ordinance. A yard extends along a lot line and to a depth or width specified in the yard requirements of the zoning ordinance.

#### SECTION 4-11-3 EXTERIOR PREMISES CONDITIONS

The owner of the premises shall be responsible for maintaining such premises in compliance with the requirements of this section. No person shall occupy as owner-occupant or let to another for occupancy use any such premises which do not comply with the following requirements:

A. Vacant Structures and Land. All vacant buildings, structures, dwellings and premises and/or vacant land, shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause blight or adversely affect the public health, safety and welfare.

B. Litter/Sanitation. All vacant land, exterior property areas and premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish, litter, garbage, building materials, abandoned and/or inoperative vehicles, tall weeds, grasses, brush or tree trimming and other similar materials.

C. Refuse Containers. All garbage/rubbish shall be stored in containers. The owner of any building with more than three dwelling units shall provide bulk refuse containers with close fitting covers of an adequate capacity to meet the needs of the occupants of such building and shall arrange for ample pick-up to control any overflow of refuse.

D. Grading and Drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building, structure or dwelling located thereon. This shall not apply to City approved detention ponds, retention ponds or drainage swales.

E. Downspout/Gutter/Sump Pump Discharge. All gutters and downspouts shall be securely and firmly fastened to the building, structure or dwelling and shall be free of debris. Gutter, downspout and sump pump discharge shall be retained upon the premises and directed away from adjacent properties.

F. Insect/Rodent Control. An owner of a building, structure, dwelling or property shall be responsible for the extermination of insects, rats, vermin, rodents or other pests in all exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner. Every owner/operator shall maintain the premises in a "pest proof" fashion by preventing the presence of insects, rodents and other vermin. This maintenance shall include construction which will prevent the ingress or egress of such animals or insects to or from the premises, or from gaining access to food, water or harborage. Such maintenance shall consist of the closing of openings in the foundation, rooms, walls, sidewalk gratings and other places that may be reached by such animals or insects by climbing, flying, or burrowing, and by the use of materials impervious to rat gnawing.

G. Sidewalks/Driveways/Public Areas. All sidewalks, steps, driveways, parking spaces and similar paved areas for public use shall be kept in a proper state of repair and free of all mud and other debris. If any sidewalk or driveway or portion thereof by virtue of its state of repair shall constitute a danger to public health and safety, the sidewalk or driveway or portion thereof shall be replaced or repaired.

H. Landscaping.

1. No premises shall contain an uncontrolled growth of weeds and/or grasses. All premises shall be frequently mowed. It is unlawful for any owner/operator of any premises, lot or tract of land within the City to:
  - a. Permit weeds, grass or undergrowth to grow over a height of nine inches or more from the ground;
  - b. Permit dead trees to remain on the premises, lot or tract of land;
  - c. Permit the growth upon any premises, lot or tract of land of any noxious weeds, such as jimson, burdock, ragweed, chokeweed, cocklebur and barberry bushes.

2. Every owner/operator shall:
  - a. Maintain any plant growth in a pruned and fertilized fashion;
  - b. Remove and discard fallen limbs, stumps, roots, obnoxious growth and branches within five (5) business days;
  - c. Remove and discard dead and dying trees or other unnatural growth which have rotted or are in a deteriorating condition within five (5) business days;
  - d. Trim all trees, hedges, shrubs and other plantings so as to avoid interference with or obstruction to persons or vehicles passing on public ways, easements or adjoining private property.

I. Exhaust Vents. A person shall not construct, maintain or operate pipes, ducts, conductors, fans or blowers discharging gases, steam vapor, hot air, grease, smoke odors or other gaseous or particulate wastes so as to discharge directly upon abutting or adjacent public and private property or that of another tenant.

J. Accessory Structures, Fences and Sheds.

1. All accessory structures, including detached garages, fences, sheds and walls, shall be maintained in a structurally sound condition and kept in compliance with the code. All garages must have doors installed and maintained in good working order.
2. All exterior surface materials, including wood, vinyl, composition or metal siding, shall be maintained in a weatherproof condition, properly surface coated and kept free of peeling paint and graffiti. Such structures shall be kept in good repair so as not to become a harborage for rats, rodents or insects.
3. It is unlawful for any owner or operator to place a temporary or snow fence on the property, except for short periods of time attendant to construction on the side for which a City building permit has been issued. Every owner/operator shall maintain all fences in good repair and keep them free from rips or missing members. All fences shall be constructed of sturdy, permanent material and be supported by rigid permanent supports, as per City code specifications. The owner/operator shall protect all metal or wood fence materials, except decay-resistant woods, against decay by using paint or other preservative materials.

K. Graffiti. The owner of the premises shall be responsible for the removal of any and all graffiti placed upon any building, structure, dwelling, garage, driveway, fence or walkway on such premises within forty-eight (48) hours of being notified.

L. Litter. Throwing or depositing garbage or refuse of any kind, including but not limited to cans, bottles, paper and plastic in any street, alley, park or public way within the City is unlawful.

SECTION 4-11-4 EXTERIOR STRUCTURE

The operator, owner or occupant of the premises shall be responsible for maintaining the exterior of the building, structure or dwelling on such premises in accordance with the requirements of this section. No person shall occupy as owner-occupant or let to another for occupancy use any such premises which do not comply with the requirements of this section. The exterior of a building, structure or dwelling shall be maintained in a structurally sound and sanitary condition so as not to pose a threat to the health and safety of the occupants and so

as to protect the occupants from the outer environment.

A. Structural Members. All supporting structural members of all buildings, structures and dwellings shall be kept in a structurally sound condition, free of deterioration and capable of safely bearing the loads that normal use may cause to be placed thereon.

B. Exterior Surfaces (Foundations, Walls, Roof).

1. Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rats, birds, insects and rodents.
2. All exterior surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick, peeling paint, holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls/ceiling and/or reflect deterioration or inadequate maintenance of the building, structure or dwelling.

C. Foundation Walls. All foundation walls shall be maintained so as to carry the safe design and operating loads of the building, structure or dwelling; said walls shall be maintained plumb and free from open cracks and breaks so as not to be detrimental to the public safety and welfare.

D. Exterior Walls. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, paint and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building, structure or dwelling. All exterior surface materials, including wood, vinyl, composition or metal siding, shall be maintained in a weather-proof condition and shall be properly surface coated/painted when required to prevent deterioration.

E. Roofs, Soffits, Facia, Cornice, Eaves, Gutters and Downspouts. The roof, soffits, facia, cornice and eaves shall be structurally sound, tight and not have defects which admit rain; roof drainage shall be adequate to prevent rain water from causing dampness in the walls, ceilings or interior portions of the building, structure or dwelling. Tarps or other plastic covering do not serve as an adequate alternative and will only be permitted as a temporary covering for up to seven (7) business days. Gutters and downspouts shall be installed and maintained as specified in the City codes. All gutters and downspouts shall be securely and firmly fastened to the building, structure or dwelling and shall be free of debris or leaves. The discharge of gutters and downspouts shall be retained upon the premises and directed away from adjacent properties in a manner that does not create a public nuisance.

F. Decorative Features. All cornices, entablatures, belt courses, corbels, terracotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

G. Signs, Marquees, Fire Escapes, Awnings and Overhead Extensions. All canopies, marquees, signs, awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhead extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of weather-coating material such as paint or other protective treatments.

H. Chimneys. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained in a structurally safe, sound condition and in good repair and shall not have any loose or missing mortar or materials. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating

material such as paint or similar surface treatments.

I. Stairs, Porches and Balconies. Every exterior stair, steps, porch, balcony and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected, and shall be kept in sound condition and good repair. Exterior steps or stairs shall have uniform risers and uniform treads. Exterior stairs and every porch, which are more than two risers high, shall have handrails so located and of such design as to be safe to use and capable of supporting the loads to which it is subjected. Every handrail or railing shall be firmly fastened and must be maintained in good condition. Properly balustrade railings no less than thirty (30) inches in height and spaced no more than five (5) inches apart, vertically or horizontal, and capable of bearing normally imposed loads as required, shall be placed on the open portions of stairs, balconies, landings and stairwells.

J. Weather tight Windows/Doors. Every window sash shall be fully supplied with glass window panes or an approved substitute which contain no open cracks or holes. Every window and door shall be fitted reasonably in its frame and be weather tight and rodent and insect proof. Weather stripping shall be used to exclude wind or rain from entering the building, dwelling or structure. Every door hinge, door latch, door and window shall be maintained in good working condition.

K. Window, Skylight and Door Frames. Every window, skylight, door and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible and substantially exclude wind from entering the building, dwelling or structure. Every window, skylight and door shall be fitted reasonably in its frame and be weather tight. Windows, skylights, doors and frames shall not be boarded up except temporarily in the event of a fire or other emergency and then only for a period not to exceed sixty (60) days.

L. Glazing. Every required window sash shall be fully supplied with glazing materials which are without open cracks or holes.

M. Openable Windows. Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.

N. Door Hardware. Every exterior door, door hinge and door latch shall be maintained in good condition. Door locks in dwelling units shall be in good repair and be capable of rightly securing the door. No person shall let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling are equipped with functioning locking devices. Locks which can be secured from the exterior of the dwelling or dwelling unit which cannot be unlocked from the interior are expressly prohibited.

O. Insect Screens--Storm Doors/Windows. Every door and window or other outside opening used for ventilation purposes shall be supplied with approved sixteen (16) mesh screening and storm door/storm windows; every swinging screen door or storm door shall have a self-closing device in good working condition. Windows located at or near ground level shall be supplied with adequate screens to prevent entry of rats or rodents into the building, structure or dwelling. Screens shall not be required in any dwelling units or rooms above the fifth floor.

P. Basement Hatchways. Every basement or cellar hatch-way shall be so constructed and maintained as to prevent the entrance of rodents, rain, rats, insects and surface water drainage into the building, structure or dwelling.

Q. Guards for Basement Windows. Every basement or cellar window which is openable shall be supplied with rodent-proof shields or storm windows or other material affording protection against the entry of rats, rodents, or insects.

R. Matching Exterior Repairs. Whenever repair, replacement or maintenance of exterior walls or roofs is required, such repair, replacement or maintenance shall be undertaken so as to match, conform and be consistent with the existing exterior.

S. Exterior Accessories. Mailboxes, television antennas, doorbells, coachlights, entrance lights, etc., shall be securely and firmly fastened to the dwelling and maintained in good repair and working condition.

T. Sump Pump Discharge. Sump pump discharge shall be directed away from adjacent properties and retained on the premises. Tying of sump pump discharge directly into the sewer system is prohibited.

U. Exterior Maintenance. The exterior finish of all buildings, structures and dwellings shall be maintained; chipped and peeling paint shall be removed and replaced with new materials, damaged and deteriorated walls shall be removed, replaced or resurfaced, failing mortar shall be reconditioned and tuck-pointed. Damaged or deteriorated roof; doors and windows shall be repaired and/or replaced to a structurally sound condition. Fences, porches, stairways, balconies and entrances shall be maintained in good condition and repair, and protected by weather resistant materials.

V. Lead-Based Paint. Lead-based paint with a lead content of more than one-half of one percent shall not be applied to any interior or exterior surface of a building, structure, dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations. Existing interior and exterior painted surfaces of buildings, structures, dwelling units and child care facilities that contain an excess of one-half of one percent lead shall be removed or covered with paneling or other suitable covering approved by the code enforcement officer.

#### SECTION 4-11-5 INTERIOR STRUCTURE

The operator, owner or occupant of the premises shall be responsible for maintaining the interior of the building, structure or dwelling of such premises in accordance with the requirements of this section. No person shall occupy as owner-occupant or let to another for occupancy use any such premises which do not comply with the requirements of this section. The owner of a building, structure or dwelling shall maintain the interior and its equipment, in a structurally sound and sanitary condition so as not to pose a threat to the health, welfare and safety of the occupants and shall protect the occupants from the environment.

A. Structural Members. The supporting structural members of every building, structure or dwelling shall be maintained in a structurally sound condition, not showing any evidence of deterioration which would render them incapable of carrying the imposed loads which they were intended to carry.

B. Interior Surface. All floors, walls, ceilings, windows, doors and other interior surfaces shall be maintained in good, clean, sanitary, working condition and shall be substantially rodent proof; free of holes, free of large cracks in wallboard, paneling or other material.

C. Safe Condition. Every interior floor, interior wall, ceiling, inside stair, every enclosed porch and every appurtenance thereto shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon and shall be kept in sound condition and good repair. Every inside stair or step shall have uniform risers, uniform treads, and handrails for two (2) or more steps.

D. Lead-Based Paint. Lead-based paint with a lead content of more than one-half of one percent shall not be applied to any interior or exterior surface of a building, structure, dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations. Existing

interior and exterior painted surfaces of buildings, structures, dwelling units and child care facilities that contain an excess of one-half of one percent lead shall be removed or covered with paneling or other suitable covering approved by the code enforcement officer.

E. Bathroom, Kitchen and Other Floors. Every water closet compartment, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water; to prevent leaking into adjacent rooms and so as to permit such floor to be easily kept in a clean and sanitary condition. All other floors shall be constructed and maintained in a structurally sound condition and capable of supporting anticipated loads.

F. Plumbing Fixtures. Every plumbing fixture and all water and waste pipes shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstruction.

G. Facilities Equipment--Utilities. Every supplied facility, piece of equipment or utility which is required under this code shall be maintained in satisfactory working condition so that it will function safely and effectively.

H. Free From Dampness. Cellars, basements and crawl spaces, in every building, structure or dwelling shall be maintained reasonably free from damp conditions likely to lead to decay, mold or deterioration of the structure.

I. Sanitation. The interior of every building, structure or dwelling shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse or garbage. Rubbish, garbage and other refuse shall be properly kept inside temporary storage facilities as required by this code. Garbage or refuse shall not be allowed to accumulate or be stored in public hallways or stairways.

J. Rat proofing. Every building, structure, dwelling, multiple dwelling or accessory structure and the premises on which it is located, shall be maintained in a rat-free and rat-proof condition. All openings in the exterior walls, foundations, basements, ground or first floors and roofs which have a one-half inch diameter or more opening shall be rat proofed in an approved manner if they are within forty-eight (48) inches of the existing exterior ground level, or if they may be reached by rats from the ground by climbing unguarded pipes, wires, cornices, stairs, roofs and other items such as trees or vines or by burrowing. All sewers, pipes, drains or conduits and openings around such pipes and conduits shall be constructed to prevent the ingress and egress of rats to or from a building, structure, dwelling, multiple dwelling or accessory structure.

K. Exit Facilities. All interior stairs and railings and other exit facilities of every building, structure dwelling shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed and maintained as to be safe to use and be capable of supporting the anticipated loads.

L. Stairs, Porches and Railings. Adequate interior stairs, porches, railings and/or other exit facilities shall be provided in every structure, and shall be maintained in a structurally sound and safe condition.

M. Handrails. Every interior stairwell and every interior flight of stairs, which is more than two risers high, shall have handrails and every open portion of a stair, porch, landing and balcony which is more than thirty (30) inches above the floor or grade below shall have guardrails. Every handrail, railing and guardrail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition. Properly balustrade railings, spaced no more than five inches apart, capable of bearing normally imposed loads as required, shall

be placed on the open portions of stairs, balconies, landings and stairwells.

N. Storage of Drugs/Poisons. Each dwelling unit shall have facilities for the safe storage of drugs and household poisons.

O. Fire/Smoke Detectors. All buildings of residential or mixed occupancy shall be equipped with approved smoke detectors in the manner prescribed as follows: smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each additional story of the family living unit including basements, but excluding crawl spaces and unfinished attics. The approved smoke detector shall be installed on the ceiling and at least six inches from any wall and thirty-six (36) inches from any cold air return or warm air vent. The approved smoke detector may be installed on a wall, located from six inches to twelve (12) inches from the ceiling and thirty-six (36) inches from any cold air return or warm air supply vent, and within fifteen (15) feet of all rooms used for sleeping purposes, with not less than one detector per living level. All multiple dwellings and buildings of mixed occupancy having any residential units shall contain not less than one approved smoke detector at the uppermost ceiling of all interior stairwells. All approved smoke detectors herein required shall be placed and installed per the National Fire Protection Association Life Safety Code and maintained in working condition.

P. Carbon Monoxide Detectors. All buildings of residential or mixed occupancy shall be equipped with approved carbon monoxide detectors in accordance with State of Illinois law.

#### SECTION 4-11-6 SPACE REQUIREMENTS

No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements; the owner shall be responsible for maintaining such building, structure or dwelling in compliance with these requirements:

A. Dwelling Units. The maximum occupancy of any dwelling unit shall not exceed the lesser value of the following two requirements:

1. For the first occupancy of a dwelling unit there shall be at least two hundred (200) square feet of floor area and there shall be at least one hundred fifty (150) square feet of floor area for every additional occupancy thereof; the floor area to be calculated on the basis of total habitable room area.
2. No more than one family or two occupants shall occupy a dwelling unit. For purposes of this property maintenance code, "family" shall be defined as one or more persons related by blood, marriage or adoption; or five or fewer persons, all of whom are not necessarily related to each of the others by blood, marriage or adoption, all living together as a single housekeeping unit and using common kitchen facilities (that is, an unrelated family).

B. Sleeping Area. Every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area and every room occupied for sleeping purposes by more than one person shall contain at least fifty (50) square feet of floor area for each additional occupant thereof.

C. Access.

1. No dwelling or dwelling unit containing two or more sleeping rooms shall have room arrangements such that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going

through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement or cellar or to the exterior of the dwelling unit.

2. Every dwelling unit shall be arranged in such a manner that each room is accessible from every other room, rooms or other areas not exclusively a part of such dwelling unit except through a doorway equipped with a door and a lock.

D. Overcrowding. If any dwelling unit is overcrowded, the code enforcement officer may order the number of persons sleeping or occupying the room to be so reduced that it shall not exceed the maximum occupancy permitted in subsection A of this section.

E. Ceiling Height.

1. At least one-half of the floor area of every habitable room shall have a clear ceiling height of at least seven and one-half feet; the floor area of that part of any room which is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
2. All public corridors and hallways shall have a ceiling height of not less than seven and one-half feet. Hallways within dwelling units shall have a ceiling clearance of not less than seven feet.
3. Bathroom/toilet compartments and utility non-habitable basement rooms shall have a ceiling clearance of not less than seven feet.

F. Closet Space. Every dwelling unit shall have at least four square feet of floor-to-ceiling height closet space for the personal effects of each permissible occupant; if it is lacking in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.

#### SECTION 4-11-7 REQUIRED EQUIPMENT AND FACILITIES

No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

A. Bathroom. Within every dwelling unit there shall be a non-habitable room which affords privacy to a person within the room and which is equipped with a flush water closet in good working condition. The flush water closet shall be equipped with easily cleanable surfaces, be properly connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly and shall be properly connected to a sewer system or septic system.

1. Such room shall be equipped with a solid door that can be locked for privacy.
2. The floors, walls and fixtures in the room shall be grouted, caulked or sealed to prevent the escape of moisture and entry of insects into adjoining sections of the dwelling or dwelling unit.

B. Lavatory/Water Closet. Within every dwelling unit there shall be a lavatory sink. The lavatory sink may be in the same room as the flush water closet, or, if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room and properly connected to a water supply system which meets appropriate City codes and

provides at all times an adequate amount of heated and unheated running water under pressure, and which is properly connected to a sewer system or septic system. Water inlets for lavatory sinks shall be located above the overflow rim of these facilities. Such room shall be equipped with a solid door that can be locked for privacy.

C. Direct Access to Lavatory and Water Closet. No dwelling or dwelling unit containing two or more sleeping rooms shall have room arrangements so that access to a bathroom or water closet compartment, intended for use by occupants of more than one sleeping room, can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment. Such room shall be equipped with a solid door that can be locked for privacy.

D. Bathtub and Shower. Within every dwelling unit there shall be a room which affords privacy to a person within the room and that which is equipped with a bathtub or shower in good working condition. The bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a water supply system and provides at all times an adequate amount of heated water at a temperature of one hundred twenty (120) degrees Fahrenheit and unheated water under pressure, and which is connected to a sewer system or septic system. Water inlets for bathtubs shall be located above the overflow rim of these facilities. Such room shall be equipped with a solid door that can be locked for privacy.

E. Kitchen/Food Preparation Room. Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall be equipped with the following:

1. Kitchen Sink. A kitchen sink in good working condition and properly connected to a water supply system and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system or septic system.
2. Cabinets/Shelves. Cabinet and/or shelves for the storage of eating, drinking and cooking equipment and utensils, and for food that does not under ordinary summer conditions require refrigeration for safe keeping; and a counter or table shall be of sound construction and furnished with surfaces that are easily cleanable and that will not impart any toxic or harmful effect to food.
3. Refrigeration and Cooking Equipment. A stove, or similar device for cooking food, and a refrigerator or similar device, for the safe storage of food at temperatures less than forty-five (45) degrees Fahrenheit, but more than thirty-two (32) degrees Fahrenheit, under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove, refrigerator and/or similar devices need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same upon occupancy, and also provided that sufficient space and adequate connections for the safe and efficient installation and operation of the stove, refrigerator and/or similar devices are provided. Every piece of such equipment shall be so constructed and installed so that it will function safely and effectively and shall be maintained in sound working condition. Portable cooking equipment employing flame, and cooking equipment using gasoline or kerosene as fuel for cooking are prohibited; provided, however, that this subsection shall not apply to fondue dishes, chafing dishes or other similar portable cooking equipment.
4. Electrical Outlets. Every kitchen shall be equipped with not less than three duplex outlets.

F. Toilet Rooms. No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements. The owner of the dwelling or dwelling unit shall maintain such dwelling or dwelling unit in compliance with the following requirements:

1. Privacy. Toilet rooms and bathrooms shall be designed and arranged for privacy. Such rooms shall be equipped with solid doors that can be locked for privacy and such doors and locks shall be maintained in good working condition.
2. Direct Access. Toilet rooms shall not be used as a passageway to a hall or other space, or to the exterior. A toilet room or bathroom in a dwelling unit shall be accessible from any sleeping room without passing through another sleeping room.
3. Floors. Bathrooms and toilet rooms shall be provided with floors of moisture resistant material. Such floors shall be structurally sound, in good repair, safe to use and capable of supporting the loads of normal use. All floors shall be rodent proof; free of holes, wide cracks and loose, protruding, warped or rotting floor boards which might possibly constitute an accident hazard. Such floor shall be easily kept clean and sanitary.

G. Plumbing Fixtures. No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose living therein, which does not comply with the following requirements. The owner of the dwelling or dwelling unit shall maintain such dwelling or dwelling unit in compliance with the following requirements:

1. Connections. Water supply lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in good working order and shall be kept free from obstructions, leaks and defects, and be capable of performing the function for which they were originally designed.
2. Maintained Clean and Sanitary. All plumbing facilities shall be maintained in a clean and sanitary condition by the occupant of the dwelling or dwelling unit so as not to breed insects and rats or produce dangerous or offensive gases, odors or mold.
3. Access for Cleaning. Plumbing fixtures shall be so installed so as to permit easy access for cleaning both the fixture and the area about it.

H. Water Systems. No person shall occupy or let to another for occupancy or use any building, structure, dwelling or portion thereof; or premises, which does not comply with the requirements of this section.

1. Connections. Every sink lavatory, bathtub, shower, drinking fountain, water closet or other facility shall be properly connected to either a public water system or an approved private water system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.
2. Contamination. The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the overflow rim of the fixture.
3. Supply. The water supply system shall be installed and maintained to provide, at all times, a supply of water to plumbing fixtures, devices and appurtenances, in sufficient volume and at pressures adequate to enable them to function satisfactorily.
4. Water Heating Facilities. Where hot water is provided, water heating facilities shall be installed in an approved manner, properly maintained in a safe working condition and properly connected with hot water lines to the fixture required to be supplied with the

hot water. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory, bathtub, shower or laundry facility, at a temperature of not less than one hundred twenty (120) degrees Fahrenheit.

5. Venting. No owner or occupant shall install, operate, or use a heating device, including hot water heating units, which employs the combustion of carbonaceous fuel, which is not vented to the outside of the building, structure or dwelling, in an approved manner and which is not supplied with sufficient air to continuously support the combustion of the fuel. All heating devices shall be constructed, installed and operated in such a manner so as to minimize accidental burns.

I. Sewage Systems. Every sink, lavatory, bathtub, shower, drinking fountain, water closet or other such facility, in a building, structure or dwelling, shall be connected to a public sewer system or septic system. The owner shall provide and maintain such sewer system in compliance with the requirements of this section. No person shall occupy or let to another for occupancy or use any building, structure, dwelling or portion thereof which does not comply with the following requirements:

1. Maintenance. Every plumbing stack, waste and water line shall be so installed and maintained as to function properly and shall be kept free from obstruction, leaks, and defects to prevent structural deterioration or health hazards.
2. Storm Drainage. An approved system of storm water disposal shall be provided and maintained by the owner of the building, structure or dwelling, for the safe and efficient drainage of roofs and paved areas; yards, courts and other open areas on the premises.

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

1. Heating Equipment. Every dwelling unit, or rooming unit shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, toilet rooms and water closet compartments as provided in this section. Heating plants designed or intended to serve one or more dwelling units shall not be located in a habitable room.
2. Cooking and Heating Equipment. All cooking and heating equipment, components and accessories in every heating, cooking and water-heating device shall be maintained free from leaks and obstructions and kept functioning properly so as to be free from fire, health and accident hazards. Portable equipment employing flame is prohibited except for approved residential-type food trays or salvers which are heated by a candle or alcohol lamp.
3. Installation. All mechanical equipment shall be properly installed and safely maintained in good working condition, and be capable of performing the function for which it was designed and intended.
4. Venting. No owner or occupant shall install, operate, or use a heating device, including hot water heating units, which employs the combustion of carbonaceous fuel, which is not vented to the outside of the dwelling or dwelling unit in an approved manner, and which is not supplied with sufficient air to continuously support the combustion of the fuel. All heating devices shall be constructed, installed and

operated in such a manner so as to minimize accidental burns.

5. Maintenance. All fuel burning equipment shall be connected to an approved chimney, flue or vent; such flue, chimney or vent shall be structurally sound and functional.
6. Clearance. All required clearances to combustible materials shall be maintained.
7. Safety Control. All safety controls for fuel burning equipment shall be maintained in effective operation.
8. Combustion Air. A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided for the fuel burning equipment.
9. Fireplace. Fireplaces and other construction and devices intended for use similar to a fireplace shall be stable and structurally safe and connected to approved chimneys.
10. Climate Control. When facilities for interior climate control (heating, cooling and/or humidity) are integral functions of buildings, structures or dwellings containing dwelling units, such facilities shall be maintained and operated in a continuous manner in accordance with the designed capacity of the installed equipment. During instances when the integral equipment is inoperative because of power or mechanical failure, alternative provisions for fresh air, ventilation of each dwelling shall be provided.

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

1. Outlets. Every habitable room shall contain at least two separate wall type electric convenience outlets or one such convenience outlet and one supplied electric light fixture, and every water closet compartment, bathroom, furnace room or laundry room shall contain at least one wall or ceiling type electric light fixture. Every kitchen shall have an additional grounded duplex electric convenience outlet in addition, to the requirements for a habitable room and this extra outlet shall be a minimum of six feet from any other required outlet for the purpose of refrigeration.
2. Installation. All electrical equipment, wiring, appliances, and electrical outlets and fixtures shall be properly installed and maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner.
3. Temporary Wiring. Temporary wiring or extension cords shall not be used as permanent wiring.
4. Defective System. Where it is found, in the opinion of the code enforcement officer, that the electrical system in a building, structure or dwelling constitutes a hazard to the occupants by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code enforcement officer shall require the defects to be corrected to eliminate the hazard within five (5) business days.
5. Maintenance. All outlets, fixtures and connecting electrical lines required by this section shall be maintained, by the owner of the dwelling or dwelling unit, in a good, safe and workable condition.

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

following requirements:

1. Safe Ingress/Egress. A safe, continuous and unobstructed means of ingress/egress shall be provided from the interior of a building, structure or dwelling to the exterior at a street, or to a yard, court, or passageway leading to a public open area at grade, and not limited to an elevator.
2. Direct Exit. Every dwelling unit shall have access directly to the outside or to a public corridor.
3. Fire Escapes. All fire escapes shall be maintained working condition and be structurally sound.
4. Exit Routes. Exits from dwelling units shall not lead through other such units, or through water closet compartments or bathrooms.
5. Exit Signs. All exit signs shall be maintained and in a visible condition.
6. Dwelling Unit Security. No dwelling unit shall be accessible from any hallway, room or other area not exclusively a part of such dwelling unit except through a doorway equipped with a door and a lock.

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

1. Accumulations. Waste, refuse or other materials shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of ingress/egress.
2. Flammable Matter. Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as waste paper, boxes and rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal usage.
3. Residential Unit. A dwelling unit shall not be located within a building or structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of one hundred ten (110) degrees Fahrenheit or lower, except as provided for in the City Code.

#### SECTION 4-11-8 ENFORCEMENT

A. Enforcement Authority. The following persons shall be responsible for the enforcement of the property maintenance standards set forth in this chapter:

1. Supervisor of the Code Enforcement Officer or the Code Enforcement Officer.

B. Collection and Settlement.

1. City Attorney. The City Attorney may take any steps necessary to prosecute violators of property maintenance codes in court, or to collect money owed relating to the property maintenance code. The City Attorney is authorized to negotiate settlements of any such enforcement or collection action.

C. Official Record. An official record shall be kept of the zoning and code enforcement department business and activities with regard to this chapter and its provisions.

D. Inspections.

1. The code enforcement department and/or the code enforcement officer may make regular inspections to determine the condition of the buildings, structures, dwellings and premises located within the City for the purposes of safeguarding the health and safety of all occupants and of the general public. The code supervisor or the code enforcement officer may make such inspections whenever he or she shall deem such an inspection necessary; provided, however, that such inspections of the interior of the premises must be made at reasonable times and upon reasonable notice to, and with the consent of the owner or operator and the occupant, except when an existing emergency requires immediate action. Inspections shall also be made by the code supervisor and/or the code enforcement officer, subject to the following conditions:
  - a. If an inspection is requested in writing by the owner or occupant;
  - b. If a building permit has been applied for by the owner or occupant; or
  - c. If an individual files a court complaint against the owner or occupant and that individual acts as a complaining witness in court and the court directs the supervisor of the code enforcement officer or the code enforcement officer to inspect the building, structure or dwelling.

E. Credentials. The code enforcement department and/or the code enforcement officer, shall, upon request, disclose proper credentials of his or her respective office for the purpose of inspecting any and all buildings, structures, dwellings and premises in the performance of his or her duties under this code.

F. Inspection Upon Warrant--Right of Entry. Whenever the code enforcement officer, after presentation of proper credentials and request for entry to inspect is refused access to any building, structure or dwelling, by any owner, occupant or other person in charge subject to the provisions of this code, the code enforcement officer is authorized to petition any judge, through the City attorney, for the issuance of a warrant authorizing the inspection of such building, structure or dwelling for the purpose of making such inspections as are necessary for the enforcement of the provisions of this code and/or all other City codes.

G. Owner's Right of Entry. Every occupant of a building, structure or dwelling shall give the owner thereof, or his or her agent or employee access to any part of such building, structure or dwelling, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter. Entry pursuant to this subsection shall be made only at reasonable times and after reasonable notice to the occupant, unless an existing emergency requires immediate action.

H. Right of Refusal to Access--Owner Occupied Single-Family Residence. The owner of a single-family residence in which he or she is the occupant, has a right of refusal to the City's code enforcement/zoning department without prior showing of a petition for right of entry, warrant or for cause.

SECTION 4-11-9 CONDEMNATION – UNFIT/UNSAFE STRUCTURES

A. Structure Unfit for Human Habitation. When a building, structure or dwelling, or part thereof is found by the code enforcement officer to be unsafe, unlawful or because of the degree in

which it lacks maintenance it is in disrepair, unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary facilities, heating facilities or other essential equipment required by this code, or because of its location constitutes a hazard to its occupants or to the public, it may be condemned pursuant to the provisions of this code and may be placarded and vacated. Any such condemned building, structure or dwelling shall not be re-occupied without the approval of the code enforcement officer. Unsafe equipment shall be placarded and placed out of service, and repaired or replaced within five (5) business days.

B. Unsafe Structure. Any building, structure or dwelling shall be designated as unfit for human habitation when any aforesaid and following defects or conditions are found and when in the judgment of the code enforcement officer such defects create a hazard to the health, safety or welfare of the occupants or of the public.

C. Unsafe Equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid container or other equipment on the premises or within the building, structure or dwelling, which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of the premises and/or building, structure or dwelling. Unsafe equipment may contribute to the finding that the building, structure or dwelling is unsafe or unfit for human habitation or use until repaired.

D. Closing of Vacant Structure. If a building, structure or dwelling, or part thereof is vacant and designated unfit for human habitation, occupancy of use; and is not in danger of structural collapse, the code enforcement officer may post a placard of condemnation on the premises and order the building, structure or dwelling closed up so as to not be an attractive nuisance to children. Upon failure of the owner to close up the building, structure or dwelling within the time specified in the order, the code supervisor or code enforcement officer shall cause the building, structure or dwelling to be closed through any available public agency, or by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the building, structure or dwelling is located and a lien shall be placed upon such real estate.

E. Vacation of Premises--Closing of Occupied Structures.

1. If a building, structure or dwelling, or part thereof is unfit for human habitation, and occupied, the code enforcement officer shall post the building, structure or dwelling, as unfit for habitation and use and shall order the building, structure or dwelling vacated within a reasonable period of time; such period of time shall not be less than one, nor more than three (3) days.
2. No building, structure or dwelling which has been designated as unfit for human habitation, posted as such and vacated, shall be used again for human habitation until written approval is secured from the code enforcement officer and the notice is removed.

F. Unfit Designation Rescinded. The code enforcement officer shall rescind the designation of unfit for human habitation; and the notice shall be removed when the defect or condition upon which such designation and posting was based has been corrected or eliminated and such building, structure or dwelling is deemed by the code enforcement officer to be safe, sanitary and fit for human habitation.

G. Removal of Notice of Unfit Structure. No person shall deface or remove the notice from any building, structure or dwelling which has been designated as unfit for human habitation and has been posted as such, other than the code enforcement officer.

H. Unfit Structure--One Year Vacant. Any building, structure or dwelling having been designated as unfit for human habitation and/or having been left vacant or abandoned for a period of one year or longer, shall be returned to full code compliance as per this chapter, the City zoning ordinance and other applicable City codes or ordinances before human habitation can resume.

I. Hearing--Unfit Structure. Any person affected by any decision of the code enforcement officer, or by any designation or posting of a building, structure or dwelling as unfit for human habitation, may be granted a hearing on the matter before the code supervisor, code enforcement officer, and/or City Council under the procedures set forth herein.

SECTION 4-11-11 NUISANCES

A. Public Nuisance. When a building, structure or dwelling or part thereof, and/or exterior property surrounding such building, structure or dwelling or any vacant/abandoned building, structure or dwelling or property is determined by the supervisor of code enforcement officer or the code enforcement officer to be unsafe or unfit for human occupancy including, but not limited to one or more of the following conditions; such building, structure, dwelling or premises, whether occupied, vacant or abandoned, shall be declared a public nuisance dangerous to the public health and safety:

1. Any act, thing, physical condition, use or occupancy of any premises or its appurtenances which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, physical senses, repose or safety of the public or persons of ordinary sensibilities.
2. Any act, thing, physical condition, use or occupancy of any premises or its appurtenances which shall continue for such length of time as to substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, or other public way.
3. Any act, thing, physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to abandoned cars, wells, shafts, basements, excavations and unsafe fences or structures;
4. Any premises which have unsanitary sewerage or plumbing facilities;
5. Any premises designated as unsafe for human habitation or use;
6. Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecured as to endanger life, limb or property;
7. Any premises from which the plumbing, heating and/or facilities required by this chapter have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided;
8. Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds and grasses;
9. Any premises which are unsanitary due to rat, rodent or insect infestation; or
10. Any structure, building or dwelling that is in a state of dilapidation, deterioration or decay; faulty construction, overcrowded, open, vacant or abandoned; damaged by fire

to the extent as not to provide shelter; in danger of collapse or failure and is dangerous to anyone on or near the premises.

B. Attractive Nuisance. When a building, structure or dwelling, or part thereof and/or the exterior property surrounding such building, structure or dwelling or any vacant/abandoned building, structure or dwelling or property, is found by the supervisor of code enforcement officer or the code enforcement officer to be in an unsightly, dilapidated, deteriorated or neglected condition, such building, structure, dwelling or premises shall be declared an attractive nuisance detrimental to the public health, safety and welfare.

C. Nuisances Declared. It is declared to be unlawful and a nuisance for any owner, operator, occupant or lien holder(s) of record of any building, structure, dwelling or property within the limits of the City to violate any of the following provisions of this subsection:

1. General Condition of Premises. The owner, occupant or operator of any building, structure, dwelling or property within the city shall maintain the exterior portions thereof in a safe, sanitary condition, clear and free from any accumulation of rubbish, garbage, building materials, litter, junk, abandoned or inoperative vehicles or parts thereof, or similar materials.
2. Litter. It is unlawful to leave, throw, scatter or accumulate wastepaper, foodstuff containers, advertising matter, refuse, sweepings or materials of like substance upon any premises.
3. Downspout/Gutter/Sump Pump Discharge Flow. All gutters and downspouts shall be securely and firmly fastened to the building, structure or dwelling and shall be free of leaves and debris. Gutter, downspout and sump pump discharge shall be retained upon the premises and directed away from adjacent properties or to storm sewers.
4. Graffiti. The owner/operator of the premises shall be responsible for the removal, within forty-eight (48) hours of being notified of any and all graffiti, as defined herein, placed upon any building, structure, dwelling, garage, driveway or walkway on the premises.
5. Vacant Properties--Structures. All vacant properties and vacant buildings, structures and dwellings shall be maintained in a clean, litter free, safe and sanitary condition.
6. Debris Accumulation. The interior or exterior areas of buildings, structures, dwellings and dwelling units, including basements, attics, other storage areas, and the surrounding premises and accessory buildings associated therewith, shall be maintained free of any debris, object, material or condition which does or may create a hazard to the health or safety of persons, and that which is conducive to rat/rodent or insect infestation, presents a fire hazard or constitutes a deteriorating influence on the neighborhood.
7. Trash.
  - a. It is unlawful for any owner/operator to permit accumulations of filth, garbage, animal waste, trash, broken glass, refuse or debris to exist on the premises.
  - b. Every owner/operator shall package garbage for pick-up in such a manner as to ensure that no windblown debris is created. The packaging shall also be done in conformity with the City's garbage and yard waste regulations.
8. Water Accumulation. It is unlawful for any owner/operator to:

- a. Permit the existence of depressions, excavations or any other conditions on the premises wherein water may accumulate. This shall not include City approved detention ponds, retention ponds or drainage swales.
  - b. Permit stagnant water susceptible to promulgation of mosquitoes or other noxious insects therein to exist on the premises.
9. Smoke/Pollutants. It is unlawful for any owner/operator to allow the escape of soot, cinders, noxious acids, fumes, gases, flay ash or industrial dust within the City limits in such quantities as to endanger the health of persons with ordinary sensibilities or to threaten or cause substantial injury to property but excluding smoke emanating from residential fireplaces.
10. Odors/Noise. It is unlawful for any owner/operator to use any property, substance or thing within the City or within one (1) mile thereof, to emit or cause any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.

D. Aggravated Public Nuisances. The repeated commission of criminal offenses and violations of the City's Municipal Code substantially annoys and injures the health, comfort, repose and safety of the public.

The failure of owners or managers of certain real property to control the activity occurring on their property causes the repeated and substantial expenditures of public funds in order to enforce State, Federal and City laws upon or near their property.

Among the property management practices that contribute to the existence of activities which disturb neighborhoods are the failure of owners of real property to require tenants to obey laws as a condition of leases, the failure to enforce existing provisions of leases, the failure of the owners to respond to or take affirmative steps to address complaints by adjoining property owners, and the overall tolerance by owners of criminal activity on property by tenants or their guests, all of which substantially annoys and injures the health, comfort, repose and safety of the public.

The decline in or depression of surrounding property values and the expenditure of public funds results in part from the facts that certain property owners fail to adequately manage and control their property.

- 1. Definition. An Aggravated Public Nuisance is a dwelling, where the owners or occupants of the dwelling conduct or commit the following activities within the dwelling unit, on the premises of the dwelling unit, or within one hundred (100) feet of the property line of the premises of the dwelling of which the owner or occupant has control within a three hundred sixty-five-day period.
  - a. Two (2) or more forcible felonies (as defined by the Illinois Criminal Code).
  - b. Two (2) or more State or Federal criminal offenses related to the illegal sale, possession or manufacture of controlled substances, cannabis or drug paraphernalia.

c. Five (5) or more of any combination of the following (as defined in the Illinois Criminal Code):

I. Disorderly Conduct, Battery, Assault, Aggravated Assault, Criminal Damage to Property, Domestic Battery, Mob Action, Unlawful Use of Weapon.

2. Violation. No owner of real property shall recklessly, knowingly, or negligently allow or permit an aggravated public nuisance or allow or permit an aggravated public nuisance to exist upon real property of part thereof, including dwelling units, owned by that person.
3. Penalties. In addition to prosecution of the offense or pursuing any other remedies available under this code, the City Attorney, upon receipt of reliable information that any real property within the City is being maintained as an aggravated public nuisance, may prosecute an action for equitable relief in the name of the City, to abate the nuisance and to enjoin any person who shall own, rent, or occupy the real property or dwelling in question from using or permitting its use as set forth herein.

a. The Court shall upon a finding of guilt in an action filed in the name of the City, fine the defendant a sum of no less than fifty dollars (\$50.00) and no more than seven hundred and fifty dollars (\$750.00) per day that the nuisance existed.

b. Upon finding of guilt, the Court may, in addition to other remedies permitted by this Code, impose other terms, including but not limited to:

I. The completion of improvements upon the property which have the impact of mitigating crime, including but not limited to the erection of fences, installation of security devices upon the entrances or increased lighting;

II. Require a written lease for occupants which includes provisions requiring eviction for criminal activity;

III. Any other condition reasonably related to the objective of abating the aggravated public nuisance.

#### SECTION 4-11-12 ABANDONED STRUCTURES

A. General. Whenever a building, structure or dwelling has been unoccupied for a period of one hundred twenty (120) days, the code enforcement officer shall serve written notice upon the owner or operator, lessee, or mortgagee that the building, structure or dwelling may be designated as abandoned within thirty (30) days after service of a notice.

B. Method of Service. Notice shall be given by personal service or by mailing a copy thereof to the owner or operator, lessee or mortgagee of the suspected abandoned building, structure or dwelling, by certified mail, return receipt requested, at his or her last known address. In the event that notice by mail is ineffective, a copy of the notice required by this section shall be posted in a conspicuous place on or about the suspected abandoned building, structure or dwelling.

C. Required Contents. Such notice shall inform the owner or operator, lessee or mortgagee of the suspected abandoned building, structure or dwelling that, unless the dwelling unit is reoccupied within thirty (30) days after service of the notice required by this section, the building, structure or dwelling shall be designated as abandoned, be posted as such, and be subject to reinspection and the issuance of an occupancy permit in the manner provided herein.

D. Effect of Notice. If a suspected abandoned building structure or dwelling is not reoccupied within thirty (30) days after service of the notice required by subsection C of this section, the building, structure or dwelling shall be designated as abandoned.

E. Designation of Abandoned. Whenever any building, structure or dwelling is subject to designation as abandoned, the code enforcement officer shall carry out such designation in compliance with the following procedures:

1. Notice and Placarding. The code enforcement officer shall serve notice of the design of the building, structure or dwelling as abandoned upon the last owner, operator, lessee or mortgagee. Service shall be by certified mail, return receipt requested, and by posting a placard at each entrance of the affected building, structure or dwelling. Where the identity or whereabouts of the owner, operator, lessee or mortgagee cannot be ascertained, notice shall be mailed to the person or persons to whom the last tax bill was mailed.
2. Contents. The notices and placards required in subsection (E)(1) of this section, shall state that the affected building, structure or dwelling is by such placard declared to be abandoned within the meaning of this chapter, and shall further state that the inspection of the abandoned building, structure or dwelling by the code enforcement officer shall be required prior to occupancy by an owner, operator or lessee and that it is unlawful to re-occupy an abandoned building, structure or dwelling.
3. Placard Removal. It is unlawful to remove or deface the placard required by subsection (E)(1) of this section, from any building, structure or dwelling which has been designated as abandoned, except as provided in subsection F of this section.

F. Effect of Designation--Abandoned Building, Structure or Dwelling.

1. Any building, structure or dwelling designated as abandoned shall be subject to inspection by the code enforcement officer, prior to occupancy of the building, structure or dwelling.
2. No building, structure or dwelling which has been designated as abandoned in accordance with subsection E of this section, shall again be used for any purpose until and unless written approval is secured from, and the placard so designating the building, structure or dwelling as abandoned is removed by the code enforcement officer who shall remove such placard only after the building, structure or dwelling has been inspected.
3. The code enforcement officer shall not issue an occupancy permit for the abandoned building, structure or dwelling until it has been inspected and is found to comply in all respects with the requirements of this chapter.

G. Fee for Inspection of Abandoned Building, Structure or Dwelling. The fee for inspection of an abandoned building, structure or dwelling shall be fifty dollars (\$50.00) per inspection, paid to the City of West Peoria.

H. Rehabitable Buildings. The code enforcement officer may declare a building, structure or dwelling rehabitable based upon a written inspection report, which includes the following:

1. The building, structure or dwelling under consideration does not conform to the present requirements of the City codes but can be made to conform to the requirements of these codes through rehabilitation.
2. The primary structural elements are basically sound, and will require a minimum amount of repair or replacement to meet the requirements of the City code.
3. The building, structure or dwelling can be made to meet the requirements of the City code without continuing an existing hazardous condition.

I. Any repair, alteration or replacement of structural elements or equipment in a building, structure or dwelling which may be required by the provisions of this chapter, shall be done in accordance with the applicable sections of the maintenance code and all other applicable City codes and ordinances.

SECTION 4-11-13 ASSISTANCE OF LEGAL COUNSEL

The code enforcement officer and any other affected City official may secure the assistance of the City attorney in the interpretation or enforcement of this chapter.

SECTION 4-11-14 EXCLUSIVITY OF REMEDIES

The imposition of any penalty pursuant to this chapter shall not preclude the City 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 building; to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules or regulations or the orders and determinations of the code enforcement officer. To that end, the remedies provided by this chapter and similar ordinances or statutes shall be cumulative.

SECTION 4-11-15 CONFLICT

A. If the provisions of this code impose a higher standard than as set forth in other ordinances of the City, then the standard set forth here shall prevail. If the provisions of this code impose a lower standard than other ordinances of the City then the higher standard contained in such other ordinance shall prevail. If any section, division, paragraph, sentence, clause or phrase of this chapter is declared invalid, such invalidity shall not affect the remaining portion of this chapter, which shall remain in full force and effect; and to this end the provisions of this chapter are declared to be severable.

B. Whenever words are used in this chapter, they shall be construed to include the plurals of such words and/or if they are followed by the words "or any part thereof." The word "shall" shall be applied retroactively as well as prospectively.

SECTION 4-11-16 VIOLATION-PENALTY

Any person found guilty of violating, disobeying or opposing the enforcement of any of the provisions of this chapter, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than seven hundred and fifty dollars (\$750.00) per violation. Each day that a violation is permitted to exist shall constitute a separate offense.