

CITY OF ATLANTA
PART III -- CODE OF ORDINANCES --LAND DEVELOPMENT CODE
APPENDIX E:

ATLANTA HOUSING CODE OF 1987*

*Editor's note--Printed herein is the Atlanta Housing Code of 1987, as adopted by Ord. No. 1987-20, § I, approved 1-29-87. Amendments to the housing code are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original housing code. Additions made for clarity are indicated by brackets.

Cross reference(s)--Housing code adopted, § 8-2181.

ARTICLE I.POLICY AND ADMINISTRATION

Sec. 1. Short Title.

The provisions embraced within the following sections shall constitute, and be cited as, "The Atlanta Housing Code," and will be referred to herein as the "Code."

(Ord. No. 1987-20, § II, 1-29-87)

Editor's note--Ord. No. 1987-20, § II retained the above section, which section was derived from section 1 of the Atlanta Housing Code of 1980 as adopted by Ord. No. 1980-74, approved August 8, 1981.

Sec. 2. Declaration of Policy.

A principal goal of the City of Atlanta is to create and preserve a safe, healthy, attractive and economically sound urban environment which will retain its current residents and attract other people. Residential communities that contain the homes of city dwellers and thus serve as the center of their activities, constitute a major and important portion of such an environment. As a result, the City recognizes that the continued development of its total environment is closely related to the creation, development, and preservation of safe, healthy, pleasant and economically sound residential communities. In support of such goals, the City is committed to policies and objectives which serve to develop, preserve and maintain: decent, safe and sanitary housing; property values and environmental conditions.

It is recognized that within the City, there currently exist dwellings and other buildings which are: unfit for human habitation or other uses; substandard, deteriorating, and/or in danger of causing or contributing to the general decline or deterioration in appearance or property value of the surrounding neighborhood; or adverse to the health, safety and general welfare of the occupants and general public thereof.

It is also recognized that there are buildings and other structures and parts of compartmentalized buildings and structures in the City, of all zoning classifications, which are vacant. By reason of their continued vacancy, these buildings and other structures are subjected to unauthorized entry which creates a condition whereby such buildings and other structures are subject to vandalism. It is further recognized that when such buildings and other structures are subject to an unauthorized entry, they become a breeding ground for criminal activity, such as, but not limited to, intemperate use of alcoholic beverages and use of drugs, thus leading to incidences of destruction of such buildings and other structures by fire and also creating health and sanitation hazards. Additionally, it is found that other criminal activity, such as, but not limited to murder and rape, are likewise carried on in such buildings and other structures. Such unauthorized entry allows various classes of criminal conduct to be carried on in such clandestine surroundings.

It is acknowledged that such conditions involving residential property within the City not only threaten or endanger the health, safety or general welfare of the occupants thereof, and of the general public; but also contribute to the decline of community spirit and the physical appearance and property values of the neighborhood. Accordingly, the

policy of this Code is to establish minimum standards for the maintenance of decent housing; to provide effective means for enforcement of such standards; and to encourage the rehabilitation and reuse of existing structurally sound buildings, while preserving, protecting and promoting the health, safety and welfare of occupants. It is further the policy of this Code to establish standards and procedures for the prevention and immediate correction of unsafe or unhealthy conditions for the protection of the neighborhood residents and of the general public.

Consistent with the Code's policy and intent to balance the necessity of protecting the public health, safety and general welfare against the undesirability of imposing particular requirements upon owner-occupants who choose to expose themselves to certain substandard conditions, the Code's basic health and safety requirements as set forth in Section 19 and 27. Code Sections 19 through 26 shall be mandatory for all other structures designed or intended for residential purposes whether occupied or vacant.

Sec. 3. Purpose.

The purpose of this Code is to provide for the maintenance of the minimum requirements necessary for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential property in the City of Atlanta.

(Ord. No. 1987-20, § II, 1-29-87)

Editor's note--Ord. No. 1987-20, § II retained the above section, which section was derived from section 3 of the Atlanta Housing Code of 1980, as adopted by Ord. No. 1980-74, approved August 8, 1980.

Sec. 4. Authority.

This Code is adopted under the authority of Article I, Section II, Paragraph IV; Article IX, Section II, Paragraph II; and Article IX, Section II, Paragraph III of the Constitution of Georgia of 1983. Further authority is found in the Urban Redevelopment Law (O.C.G.A. 36-61-11); O.C.G.A. 36-34-2; O.C.G.A. 41-1-1 through 41-2-17; O.C.G.A. 44-7-4 and both Section 8-114(i) and Powers 16, 22, 25, 30, 31, 33, 34, 39, 46, 47, 55, 56, and 57 enumerated in Appendix I of the Charter of the City of Atlanta, Georgia.

Sec. 5. Scope and Application.

(a) Occupied and vacant dwelling space. Every building, in whole or in part, containing or designed to contain dwelling units whether vacant or occupied, shall conform to Sections 19 through 29 of this Code, irrespective of the primary use of such building and the date such building may have been constructed, altered, or repaired. Such property, whether privately owned or publicly owned, by the Atlanta Housing Authority or any other public entity, and whether receiving any type of governmental financial assistance, shall be subject to and conform with the applicable requirements of this Code unless otherwise provided by law.

(b) Buildings with Special Uses. Every building used or intended for use as a Rooming House, Boarding House, Dormitory, Emergency Shelter, Group House, Residential Care Facility or like Facility, shall conform to Sections 19 through 25 and Section 26 of this Code irrespective of the primary use of such building and the date such building may have been constructed, altered or repaired. Such property, whether privately owned or publicly owned, by the Atlanta Housing Authority or any other public entity, and whether receiving any type of governmental financial assistance, shall be subject to and conform with the applicable requirements of this Code unless otherwise provided by law.

(c) Abatement of Interior Violations. When a dwelling is vacant, the full application of this Code shall be held in abeyance for a period not to exceed six months provided that the exterior of such dwelling complies with the applicable provisions of this Code; the interior has been cleaned of trash, rubbish, and debris; and the dwelling has been made inaccessible by boarding and maintained in accordance with Section 29.

(d) Vacant Lots. Vacant lots shall conform to the applicable provisions of section 19 through 26 of this Code.

(e) Application of other Ordinances. Any alterations to buildings, or changes of uses therein which may be caused directly or indirectly by the enforcement of this Code shall be done in accordance with all applicable codes including but not limited to: The City of Atlanta Building Code, the City of Atlanta Electrical Code, the City of Atlanta Elevator Code, the City of Atlanta Gas Code, the City of Atlanta HVAC Code, the City of Atlanta Plumbing Code, the City of Atlanta Fire Prevention Code, the Georgia Energy Code for Buildings and the Georgia State Code for Handicapped Accessibility. Nothing in this Code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance of the City of Atlanta.

(f) All new work to Conform.

(1) No building or structure shall hereafter be constructed, repaired or altered, nor shall the equipment for the operation of a building, structure, premises be constructed, installed, altered, repaired or removed, except in conformity with the provisions of this Code, unless specifically exempted therefrom;

Sec. 5. Scope and Application.

(2) No building or structure shall be altered in any manner which would be in violation of the provisions of this Code or of any authorized rule promulgated by the Director of the Bureau of Buildings made and issued thereunder, unless specifically exempted therefrom;

(3) Nothing in this Code shall prohibit the raising or lowering of a building to meet a change of grade in the street on which it is located, provided that the building is not otherwise altered;

(4) Whenever, in the opinion of the Director the full implementation of this Code would work an undue hardship in a specific case, the Director may waive the requirements in question provided that some equivalent means of achieving substantially the same degree of safety is assured. Said waiver shall be in writing and shall state the equivalent methods by which safety shall be assured.

(Ord. No. 1996-79, § 1, 11-12-96; Ord. No. 1998-56, § 1, 9-16-98; Ord. No. 1998-59, § 2, 9-17-98)

Sec. 6. Definitions.

Words in this Code used in the present tense include the future tense; the singular includes the plural; and the plural includes the singular. Whenever the words "building", "dwelling", "dwelling unit", "premises", "rooming house" "rooming unit", "boarding house", or "boarding unit" are used in this Code, they shall be construed as though they were followed by the words "or any part thereof."

The following terms used or referred to in this Code shall have the respective meanings:

APPLICABLE PROVISIONS OF THIS CODE shall mean:

Sections 19 through 29 of this Code for a building used or intended for use as a dwelling, vacant dwellings or a building with special uses. Whenever the applicable standard for a building, with special uses set forth in Section 26 conflicts with any standard contained in Sections 20 through 25, the standard specified in Section 26 shall apply.

Abandoned vehicle shall mean any vehicle left unattended in the same location for 30 days or more.

Basement shall mean that portion of a building having less than one half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Boarded Dwelling shall mean a dwelling which has been made inaccessible by boarding as prescribed in Section 29 of this Code.

Boarding House shall mean any dwelling consisting of one or more rooming units, in which the owner or operator rents space to five to fifteen persons with one or more meals regularly served either as part of the rental or for a separate charge.

Building shall mean an edifice of any kind composed of parts joined together in some form, including, but not limited to garages, sheds, fences, accessory structures and appurtenances.

Building with Special Uses shall mean a rooming house, boarding house, dormitory, emergency shelter, group house, residential care facility or like facility.

Cellar shall mean that portion of a building having more than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

City shall mean the City of Atlanta, Georgia.

Complaint shall mean any expression of concern, protest or dissatisfaction to the Director relating to the implementation or enforcement of this Code which reasonably specifies the suspected violations of this Code and which identifies the complaining party and the specific location of the dwelling suspected to be in violation of this Code.

Complex shall mean three or more buildings sharing common areas and having unified ownership or management.

Conviction shall mean a judgement by the Court, finding a defendant guilty as charged on a particular date, concerning a particular property, of violating either a single or multiple provisions of this Code or any previously enacted City of Atlanta Housing Code.

Court shall mean the Municipal Court of Atlanta or other Court of competent jurisdiction.

Director shall mean the Director of the Bureau of Neighborhood Services or said person's authorized representative. Hereinafter, any reference to the Director of the Bureau of Buildings in this chapter shall mean the Director of Neighborhood Services.

Dormitory shall mean a dwelling used for institutional living and sleeping purposes by ten (10) or more persons.

Dwelling shall mean any building, along with its appurtenances, used or intended to be used, wholly or in part, for human habitation or for the inhabitants use.

Dwelling Unit shall mean any portion of a building used, intended or designed as a separate abode and used, intended or designed for living, sleeping, cooking and eating therein.

Extermination shall mean the control or eradication of infestation by removing or making inaccessible materials that may serve as food, breeding places or harboring places for pests, vermin or rodents and shall include pest control by poisoning, spraying, trapping, fumigating or any other recognized, legal and effective pest eradication procedure.

Family shall mean persons related by blood, marriage or operation of law.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Grade shall mean the average elevation of the ground adjoining a building.

Habitable Room shall mean an enclosed floor space arranged, used or intended to be used for any combination of living, sleeping or eating purposes. Space devoted exclusively for a bathroom, water closet compartment, kitchen, laundry, pantry, foyer, hallway, closet or storage space shall not in and of itself be considered a habitable room.PART

Sec. 6. Definitions.

Infestation shall mean the presence within or around a dwelling of pests, vermin or rodents in such numbers or with such frequency as may be substantially detrimental to the health, safety or general welfare of the occupants and of the general public thereof.

Junk vehicle shall mean any automobile, truck, van, recreational vehicle, mobile home or trailer of any kind, whether such vehicle has been wrecked or dismantled in part or whole, abandoned or discarded, which is inoperable or which cannot be legally operated on the public roads or which does not bear a current registration or a current license plate or a current state required inspection sticker.

Nuisance shall mean any condition, act or occurrence that results in annoyance, harm, inconvenience or damage to another; and the fact that the act or occurrence may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary reasonable person.

Occupant shall mean any person over one (1) year of age living in, using or having possession of a dwelling, except that a temporary guest shall not be considered an occupant.

Operator shall mean the person or persons, if any, with whom the owner has an agreement to manage, lease, rent, control, maintain or care for rental property, vacant property or a building with special uses.

Owner shall mean any person or persons having any individual, joint or common title or interest in real property defined by the laws of the State of Georgia as a legal or equitable estate or interest.

Owner-Occupied Dwelling shall mean any dwelling occupied in the entirety by its owner and/or the family of the owner.

Party in Interest shall mean a person in possession of property or having title or interest in property as defined by the laws of the State of Georgia as a legal or equitable estate or interest in property, and shall include, but not be limited to an executor, administrator, guardian or trustee.

Person shall mean an individual, partnership, joint venture, association, corporation or any other legal entity recognized by the laws of the State of Georgia.

Plumbing shall mean all of the following supplied facilities and equipment: gas pipes, water pipes, garbage disposal units, waste pipes, water closets, hot water heaters, sinks, lavatories, bathtubs, shower baths, catch basins, drains, vents, and other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Premises shall mean a lot, plot or parcel of land, including dwellings, buildings, or structures thereon.

Property shall mean buildings, dwellings, land and whatever is erected or growing upon or affixed thereto.

Rental Dwelling Unit shall mean a dwelling unit for which periodic payments or other consideration is received in exchange for use and possession thereof.

Rooming House shall mean any dwelling space consisting of one or more rooming units in which the owner or operator rents space to five through fifteen persons.

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

Rubbish, Litter and Debris shall mean combustible and noncombustible waste materials except garbage. Such shall include, but not be limited to: paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard

trimmings, tin cans, metals, mineral material, glass, crockery and the residue from the burning of wood, coal, coke and other combustible material.

Secured Dwelling shall mean a vacant dwelling to which unforced entry by persons cannot be readily made through the said dwelling's doors, windows or other openings of sufficient size to facilitate entry by persons.

Substandard Dwelling shall mean a dwelling in which any condition exists that is set forth in Section 19 or that does not meet the applicable requirements set out in Article II herein.

Substantial Compliance shall mean the existence in the subject building or dwelling unit of no more than three (3) violations of this Code, none of which constitutes a violation of Section 19.

Supplied shall mean contracted for, furnished by, installed by or under the control of the owner or operator of property.

Unfit for Human Habitation shall mean the existence on property of any condition that is set forth in Section 19 of this Code.

Utility Services shall mean water, gas, electric and sewer services.

Vacant shall mean unoccupied.

Vacant lot shall mean a parcel of land devoid of an edifice of any kind.

Workmanlike Maintenance and Repair shall mean maintenance and repair made in a reasonable skillful manner and ordinarily performed, under similar conditions and like circumstances, by persons in that trade or profession.

(Ord. No. 1996-79, § 2, 11-12-96; Ord. No. 1998-26, § 1, 5-12-98; Ord. No. 1998-56, § 2, 9-16-98; Ord. No. 1999-74, § 1, 10-26-99)

Sec. 7. Enforcement.

(a) Authority. The primary authority and responsibility for the enforcement of the provisions of this Code shall be vested in the Director of the Bureau of Buildings of the City of Atlanta or the successor of such Bureau.

(b) Powers and Duties of the Director. The Director shall have the power and duty to perform the following functions:

(1) To investigate and determine whether dwellings and buildings in the City are in violation of any of the requirements of this Code and to determine if dwelling units are unfit for human habitation or other use;

(2) To enter upon property for the purposes of making inspections, provided, however, that such entry shall be made as provided hereinafter in Section 8;

(3) To investigate and determine whether certain provisions of this Code shall be enforced against the owner, operator, occupant or any combination thereof;

(4) To appoint and fix the duties of such officers, agents and employees as the Director deems necessary to carry out the purposes of this Code;

(5) To delegate any of the Director's functions and powers under this Code to such officers and agents as may be deemed necessary;

(6) To administer oaths, affirmations, examine witnesses and receive evidence;

(7) To accept complaints as provided for in this Code and, unless otherwise provided for in this Code, to determine when valid circumstances exist for such complaints to be oral rather than written, provided that any oral complaint shall be recorded by the Director in a timely manner;

(8) To perform any other duty specified by this Code.

(c) Assistance of County Authorities. In the performance of the aforementioned duties, the Director shall be authorized at any time to seek from the legally designated health authorities of Fulton and DeKalb Counties such assistance and cooperation as those authorities may be able to give in the areas of the City within their respective jurisdictions.

(d) Adoption of Rules and Regulations by Director. The Director shall be authorized to adopt such reasonable rules and regulations as the Director may deem necessary for the proper administration and enforcement of the provisions of this Code; provided, however, such rules and regulations shall not be in conflict with this Code or with any laws of this State.

(e) Determination of Reasonable Time for Compliance. When calculating a reasonable time for compliance under this Code, the Director shall take into consideration the following criteria:

(1) The type and degree of defect cited;

(2) Any procedural requirements for obtaining a permit to perform corrective action;

(3) The anticipated complexity of the corrective action including but not limited to, seasonal considerations and construction requirements;

(4) The intent of a responsible party to repair, demolish or vacate and close the building or dwelling, if such intent has been expressed to the Director;

(5) Any other known circumstances beyond the control of the responsible party.

(f) Private remedies. The authority of the Director to enforce this Code shall not preclude any person affected by a violation of this Code from bringing any action or asserting any defense pursuant to laws such as O.C.G.A. 44-7-2; 44-7-13; 44-7-14; 41-2-5; and 51-1-6 and, as such might be amended; or any other applicable provisions of law.

(g) Liability. Officers or employees, or member of the Housing Appeals Board or In Rem Review Board, charged with the enforcement of this Code, in the discharge of their duties, shall not thereby render themselves liable personally, and are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their duties. Any suit brought against any officer or employee because of this Code shall be defended by the Department of Law until the final termination of the proceedings.

Sec. 8. Inspections.

(a) The Director is hereby authorized and directed to make inspections to determine the condition of property located within the City in the interest of safeguarding the health and safety of the occupants and the general public, or in the interest of enforcing any applicable provisions of this Code. Upon presentation of proper credentials, the Director may enter any property at any reasonable time to perform any duty imposed by the Code pursuant to a lawfully issued search warrant. The Director may enter such property at such time to perform said duties without a search warrant only when one of the following circumstances exist:

(1) An emergency situation which requires that the property be immediately inspected in order to adequately protect public health or safety, or to prevent substantial physical damage to any property;

(2) The property is both vacant and unsecured; or

(3) The occupant, owner, or operator requests or otherwise consents to the search;

Provided, however, that no warrantless search may be made under exceptions (2) or (3) above over the direct objection of any person(s) in control of the premises at the time of the inspection.

(b) Scheduling of inspections shall be arranged on the following basis:

(1) Within ten days of any request or complaint by the owner, operator or occupant. Such request or complaint by a tenant shall not in itself constitute a basis for the owner or operator to terminate such tenant's lease or rental agreements;

(2) Pursuant to inspections conducted for the purpose of insuring that rental property complies with this Code and within twelve (12) months after the effective date of this Code and every five (5) years thereafter, the Director shall study the City's rental housing stock for the purpose of developing periodic, area-wide inspection plans for the City's rental housing stock. Within six months after the completion of such study, the Director shall develop, adopt and promulgate a five year plan for the inspection of buildings with special uses and rental dwellings based on such factors as the type of building; the nature of its use; its condition; information indicating the existence of violations of this Code; the passage of time since the last inspection; general neighborhood conditions; and other similar considerations relevant to the inspections of buildings or dwellings for the purpose of enforcing this Code;

(3) Vacant dwellings which are boarded and made inaccessible and interior requirements have been held in abeyance pursuant to Section 29, shall be inspected at least once every six months. A vacant dwelling shall also be inspected within ten (10) days of any complaint by a person residing in the neighborhood where the subject dwelling is located;

(4) In addition to the foregoing provisions, any property may be inspected whenever the Director has reason to believe that it is in violation of any applicable provision of this Code.

(c) No official or employee of the City making an inspection of properties for any purpose set forth in this Code shall:

(1) have any financial or personal connection with the owner or operator of the inspected property, nor shall any such official or employee have any direct or indirect financial interest in any certificate, license, repairs or corrections which may be required;

(2) refer or recommend to any owner or operator any contractor, builder, construction mechanic or other person who would gain financial benefit from such referral or recommendation.

(d) The Director shall adopt policies, rules and regulations to ensure that all employees or officials who make inspections under this code are adequately trained and certified.

(e) An inspection made under this Code upon the request of the owner shall be made only after the appropriate fee hereinafter has been paid to the City, to wit:

(1) Fifty Dollars (\$50.00) for a structure containing one through twelve units located on no more than two floors.

(2) One Hundred Dollars (\$100.00) for a structure containing more than twelve units located on no more than two floors.

(3) Fifty Dollars (\$50.00) per floor for structures containing units located on more than two floors.

Such a fee shall not be required from an owner requesting an inspection of a rental dwelling due to a complaint about the occupant.

(Ord. No. 1998-26, §§ 2, 3, 5-12-98)

Sec. 9. Maintenance, Availability and Certification of Records.

(a) Index. All orders, certificates, notices, waivers, and reports made pursuant to this Code shall be maintained for at least five years.

(b) Availability. The records referred to in subsection (a) shall be made available during business hours for examination and/or copying as required by law.

(c) Certification. The Director shall designate an employee or employees as keepers of the records referred to in subsection (a). Such employee or employees shall be authorized to certify under seal, copies of such records for admission in evidence under O.C.G.A. 24-7-21.

Sec. 10. Notice of Inspection.

(a) Issuance and Filing of Notice. Within 30 days of any property inspected under this Code for the purpose of determining compliance with the provisions thereof, the Director shall determine whether such property conforms to the applicable provisions of this Code and if it does not so conform, shall cause an appropriate written notice to be served upon the owner, operator or occupant. As used in this Section and elsewhere in this Code, service of notice upon an owner or operator shall mean service upon such owner or operator or upon that person's designated agent for service. A copy of the notice shall be filed in the office of the Bureau of Buildings.

(b) Notice of Non-compliance. If the Director determines that the inspected property does not conform to the applicable provisions of this Code, the notice issued pursuant to Subsection (a) herein shall include:

- (1) An enumeration of conditions which the Director has determined to be in violation of this Code and an enumeration of remedial action required for each violation;
- (2) A specified period of time, not to exceed ten (10) days from the date of notice within which such remedial action must be commenced.
- (3) A specified period of time after commencement of such remedial action within which such remedial action shall be completed, including, if necessary, separate reasonable completion dates for remedial action as to separate violations, such periods of time to be determined by the Director as those periods of time reasonably required, under all the circumstances then known, for the completion of such remedial action;
- (4) A twenty (20) day period within which the Director shall be provided the names, addresses and telephone numbers of the owner, the operator and all occupants of the subject property and if there exists a designated agent for service of process, the name, address and telephone number of such agent;
- (5) A statement adequate to notify the person served of the unlawfulness of the failure to comply with the provisions of this Code within the time set forth in the notice and the consequences of such failure to comply; including the consequences of the failure to abate conditions constituting a nuisance or rendering a dwelling not in substantial compliance with this Code or unfit for human habitation;
- (6) A statement adequate to notify the person served of the right of appeal set forth in Section 16 of this Code.

(c) Service of Notice. The service of any notice under this Section shall be accomplished by any of the following methods:

- (1) By enclosing, directing, stamping and mailing, by certified mail with return receipt requested, a copy of the notice to said person's last known address;
- (2) By posting a copy of the notice on the door of the person's place of residence or usual place of abode and by enclosing, directing, stamping and mailing by prepaid first class mail, a copy of the notice to said person's address;
- (3) By delivering personally to said person named in such notice;

(4) By leaving a copy at said person's dwelling place or usual place of abode with a person of suitable age or discretion residing therein;

(5) By transmitting, by any of the aforementioned means, a copy of the notice to said person's agent authorized by appointment or by law to receive service of process. Provided that, if the person named in such notice actually receives it by any means, such person shall be bound by it. Upon the request of any owner, operator or occupant of the building to whom such notice is not directed, a copy of the notice shall be mailed to such person by prepaid, first-class mail, properly addressed;

(d) Knowledge of Issuance of Notice. A purchaser, transferee, lessee or mortgagee, who prior to such sale, transfer, lease or mortgage has actual or constructive knowledge of the issuance of a notice pursuant to this Section shall be bound by such notice.

(e) Required Information. Within twenty (20) days of receipt of a notice pursuant to Subsection (b) hereinabove, the person named in such notice shall provide to the Director, the names, addresses and phone numbers of the owner, the operator and all occupants of the subject property and of any designated agent for service of process. The name, address and telephone number of the person responsible for maintenance and repair, if any, shall also be provided.

(f) Notice of Change in Ownership.

(1) Ownership Transfer. Within thirty (30) days after the transfer of ownership of any property for which a current Notice of Non-compliance is issued, the transferor shall file with the Bureau of Buildings, a notice of such transfer, identifying the property by street name and number and containing the name, address and telephone number of the successor in interest;

(2) Death or Dissolution of Owner. Within thirty (30) days after the death or dissolution of a person owning property for which a current Notice of Non-compliance is issued, the heirs, executor, administrator or legal representative of the estate or successor shall file with the Bureau of Buildings a notice identifying the property by street name and number and stating the fact of the owner's death or dissolution and the name, address and telephone number, if known, of the successor in interest.

(g) A Rental Dwelling Unit or Rooming Unit not in substantial compliance with this Code for which a Notice of Non-Compliance is issued shall not be leased, rented or occupied by any person other than the tenant in occupancy at the time the Notice of Non-Compliance is issued; provided that this shall not preclude such tenant, owner or operator from bringing any action or asserting any defense authorized by law, nor shall this preclude the lease or rental of said unit after being brought into substantial compliance.

(h) Further Violations.

(1) The following shall constitute violations of this Code:

a. Leasing, rental or allowing occupancy of rental dwelling Units and rooming units not in substantial compliance with this Code to persons other than the tenant in occupancy at the time of issuance of the Notice of Non-Compliance;

b. Providing of false information by an owner or operator under Subsection (e) and Subsection (f) (1) herein;

c. Failure of an owner or operator to provide or update any information required under (e) and (f) (2) herein; provided that such failure shall not result in a violation if such information is submitted within a reasonable time after notice.

(2) The Director shall cause a written notice to be sent to any owner or operator who has committed a violation under Subsection (i). Such Notice shall specify the reasons for the violation, shall list any corrective measures required and the amount of time allowed for corrective action, and shall notify the affected person of the right to appeal.

(i) Compliance with Notice. After the person upon whom the Notice of Non-Compliance has been served, satisfactorily completes the required repairs, that person shall notify the Director. If the Director determines that the required repairs have been satisfactorily completed, the file on said notice shall be marked "complied" and shall be filed pursuant to law. Upon receipt of written request from said person, a letter certifying such compliance with the notice shall be mailed to said person.

Sec. 11. Administrative Hearings.

(a) Scope and Purpose.

The Director may cause an Administrative Hearing to be conducted by the Solicitor of the Municipal Court or his designee when the recipient of a notice of non-compliance fails to comply within the reasonable time allowed for compliance within the notice. The purpose of the hearing shall be to obtain compliance without the necessity to criminally prosecute the recipient of the notice. The owner, operator or tenant who attends a hearing shall be afforded an opportunity to show cause of why he/she has not complied with the notice and to show cause why he/she should not be prosecuted for failure to comply with the notice.

(b) Notice of Hearing.

The Director may issue an order to the recipient of any notice who has failed to comply within the specified time directing the recipient to appear for a hearing at a specified time and place to show cause why he or she should not be prosecuted for non-compliance. Notice of the Hearing shall be Notice of the Hearing shall be mailed certified mail to the last know address of the recipient at least ten (10) days before the scheduled hearing.

(c) Rules of Procedure.

(1) The Solicitor shall establish rules of procedure for the hearing which allows a less formal presentation of evidence than required by a court.

(2) The Solicitor shall have the authority to administer oaths and require that witnesses who give testimony be sworn.

(3) The Solicitor may make suggestions and referrals to governmental and public agencies which may be helpful in obtaining compliance.

(4) The Solicitor is authorized to extend the time for compliance for just cause. However, extensions for rental property for more than 30 days shall be pursuant to Section 5 below.

(5) The Solicitor is authorized to extend the time for compliance for more than 30 days on rental or vacant property provided:

(a) The violations are not highly hazardous (Section 19).

(b) The owner posts a performance bond equal to 10% of the cost of repairs as determined by the Director.

(c) The owner agrees in writing to fully complete all repairs within a specified time not to exceed six (6) months.

(6) The Performance Bond shall be made payable to the city of Atlanta and shall be forfeited if all repairs are not made within the specified time.

(7) Should the owner fail to complete the repairs within the time specified within the original notice and fails to post a bond as specified in Section 5 above, the Director is authorized to pursue legal action to compel compliance.

(8) The Performance Bond posted with the Solicitor shall be returned to the maker upon certification from the Director that the property complies with the code within the time agreed upon.

Sec. 12. Abatement of Nuisance.

Nothing contained in this Code shall prohibit the Director from bringing a proceeding to abate a nuisance as provided by O.C.G.A. 41-1-1 through 41-2-17; or Power 31 enumerated in Appendix I of the Charter of the City of Atlanta, Georgia; or as otherwise provided by law. An action brought pursuant to this section, shall not be superseded by any other provision of the Atlanta Code.

(Ord. No. 1996-79, § 3, 11-12-96)

Sec. 13. Placarding of Occupied Property.

(a) Pursuant to a hearing by the court when charges have been brought against an owner or operator, the court is authorized to determine if the dwelling unit is unfit for human habitation. If so determined, it shall order the director of the bureau of neighborhood services responsible for the enforcement of this Code to place a signed and dated placard to that effect, on the dwelling unit determined to be unfit for human habitation. The court shall specify a date by which the dwelling unit shall be vacated unless rendered fit for human habitation. Such placard shall contain the following words:

"This dwelling unit has been adjudicated by the Municipal Court of the City of Atlanta to be in violation of the Atlanta Housing Code and determined to be unfit for human habitation. It shall be unlawful for this dwelling unit to be occupied after _____ (date) until all repairs required by the Atlanta Housing Code have been made and approved by the director of the bureau of neighborhood services. Mutilation or unauthorized removal or defacing of this placard shall be an offense punishable by fine and/or imprisonment."

(b) Unlawful to Occupy Placarded Dwelling Unit. After the date specified by the court, it shall be unlawful for any person to occupy the placarded dwelling unit or for the owner or operator to allow occupancy of the dwelling unit or rent or lease the dwelling unit for occupancy.

(c) Unlawful to Allow Placarded Dwelling Unit to be reoccupied. It shall be unlawful for an owner or operator to allow a placarded dwelling unit to be reoccupied.

(d) Placarded Notice to General Public. The posting of the placard as provided for herein and the recording of such in the records of the Bureau of Buildings of such action shall be notice to the general public that it shall be unlawful for any owner to allow the dwelling or structure to be occupied, and unlawful for any person to occupy, as provided herein; and no further notice by the City shall be required to be given to any subsequent owner or occupant.

(e) Defacement of Placard. It shall be unlawful to deface, alter, or destroy, cover or remove said placard.

(f) Removal of Placard by the Director. The Director shall remove the placard when compliance of all violations of this Code necessary to render property fit for habitation has been effected.

(Ord. No. 1996-79, § 4, 11-12-96)

(a) Placarding Vacant Property; Service and Filing of Notice. The Director shall place a dated and signed placard on vacant property when the Director determines, pursuant to inspection, that there exists at least one of the conditions enumerated in Section 19. The Director shall notify the owner or operator of such property by any method prescribed in Section 10 of this Code that the property has been placarded, the specific reason(s) therefore and conditions in violation of this Code. Such notification sent by registered mail with return receipt requested, shall advise the owner of the right of appeal as provided in Section 16. A copy of the notice shall be filed in the office of the Bureau of Buildings.

(b) Contents of Placard. The placard issued pursuant to Subsection (a) hereinabove shall contain the following words:

"WARNING. This property has been inspected and conditions have been found which are unsafe or unsanitary and which are in violation of the Atlanta Housing Code. It shall be unlawful for this property to be occupied until repairs required by the Atlanta Housing Code as being necessary to again render this property fit for human habitation, have been made in a satisfactory manner and approved in writing by the director of the bureau of neighborhood services. Mutilation or unauthorized removal or defacing of this placard shall be an offense punishable by fine or imprisonment."

(c) Occupancy of Placarded Property. It shall be unlawful for an owner or operator to allow occupancy of property and for any person to occupy a property which has been placarded as provided by subsection (a) until after all applicable requirements of this Code have been met; provided that the Director may grant written permission to occupy such property for a ninety (90) day period to enable correction of the conditions for which the property has been placarded.

(d) Right of Appeal. The owner or operator of said property shall have the right to appeal from the determination of the Director to placard, as provided under Section 16.

(e) Notice to General Public. The posting of the placard as provided for herein and the recording of such action in the records of the Bureau of Buildings shall be notice to the general public that it shall be unlawful for any owner or operator to allow the property to be occupied, and unlawful for any person to occupy as provided herein; and no further notice by the City shall be required to be given to any subsequent owner.

(f) Defacement of Placard. It shall be unlawful to deface, alter, destroy, cover, or remove said placard.

(g) Removal of Placard. The Director shall remove the placard after substantial compliance with this Code has been effected.

(Ord. No. 1996-79, § 5, 11-12-96)

Sec. 15. Housing Appeals Board.

(a) Membership. The membership of the Housing Appeals Board shall be nine (9) persons nominated by the Mayor and confirmed by the Council. Said members shall consist of two (2) tenants, two (2) persons over 60 years of age who have retired from their regular occupations and five (5) persons, one each from the following five occupational groupings: financial or general business; residential construction or architecture; health or public welfare; law practice; and residential property management.

(b) Compensation. Each member of the Board shall be paid twenty-five (\$25.00) dollars for each Board meeting attended.

(c) Terms of Members. Members of the Board shall be appointed for three-year terms. For each regular member an alternate member shall be appointed who, when called upon to do so, shall act in the capacity of a regular member and shall possess the authority of such member when so acting.

(d) Duties and Authority. The duties and authority of the Board shall be:

(1) To promote better housing and neighborhood conditions in the City by encouraging the City and others to take actions in harmony with the general purpose and intent of this Code;

(2) To consider and rule on appeals filed pursuant to Section 16 of this Code and appeals filed pursuant to Section 2090 of the Atlanta Commercial, Institutional and Industrial Building Maintenance Code;

(3) To certify applicants and determine repair work to be accomplished under the Housing Assistance Program and similar programs designed to assist destitute owner-occupants in complying with this Code. Provided that the Chairman of the Housing Appeals Board or any member designated by the Chairman is authorized to act as a Hearing Officer for the Board for the purpose of certifying indigent applicants or recommending restoration of Water Service, when in the opinion of the Director, an emergency condition exists;

(4) To make recommendations to the City of Atlanta Bureau of Water and Pollution Control to modify outstanding water bills and/or provide water service to assist destitute owner-occupants or tenants in complying with this Code.

(e) Hardship. The Board shall make specific findings of hardship when, from the evidence presented in appeals brought before it, it is shown that unnecessary hardship would result or practical difficulties exist which warrant relief to an appealing party from the requirement of carrying out the strict letter of any notice. Whenever such hardship is found, the Board may extend the time for compliance with any notice issued pursuant to authority set forth in the Code and may, in cases of extreme hardship, suspend the enforcement provisions of the Code for a specified period of time or until the happening of a specifically defined future event.

Charter reference(s)--Boards and commissions, § 3-401.

Code of ordinances reference--Boards, councils and commissions, § 2-1851 et seq.

Sec. 16. Appeals to Housing Appeals Board.

(a) Right of Appeal. Any owner, operator, or occupant may enter a written appeal to the Housing Appeals Board in response to any of the following actions:

- (1) Issuance of notice to correct enumerated Code violations pursuant to Section 10.
- (2) Placarding of vacant property pursuant to Section 14; or
- (3) Appeals filed pursuant to Section 2090 of the Atlanta Commercial, Institutional and Industrial Building Maintenance Code.

(b) Time for Appeal. The appeal of any of the above actions shall be made in writing to the Board within thirty (30) days of service of the notice, except that an appeal of a notice under Section 19 requiring repairs of highly hazardous violations must be filed within three (3) days of service of Notice of Non-Compliance. An appeal filed after the applicable deadline shall not be acted upon by the Board unless the Board finds good cause for such late filing.

(c) Hearings.

(1) The Board shall notify a person appealing any of the aforementioned actions to appear before it at a specified time and place to show cause why said action should be modified or reversed.

(2) The Board shall hold hearings on appeals within thirty (30) days after they are filed and shall render its decision on each appeal in writing to the appealing party and Director within ten (10) days following the hearing thereon. Said decision of the Board shall be binding on the Director and the appealing party.

(d) Rules of Procedure. The Board shall establish its own rules of procedure for the accomplishment of its duties and functions provided that such rules shall not be in conflict with the provisions of this Code and the laws of the State of Georgia.

Sec. 17. Failure to Comply with Notice or Code.

(a) It shall be unlawful for an owner, operator, or occupant to fail to comply with any applicable provision of this Code.

(b) If a written notice, placard or a violation of Section 22(b), has not been complied with, the Director is authorized to take any of the following actions, as appropriate:

- (1) Refer the file to the Housing Appeals Board for a hearing;
- (2) Conduct an Administrative hearing as provided by Section 11;

- (3) Initiate procedures for Court action as provided in Section 18;
- (4) Initiate In Rem proceedings as provided in Article III;
- (5) Extend the compliance time for extenuating circumstances as listed in Section 7(e).

Sec. 18. Judicial Proceedings.

(a) **Charges and Summons.** If the owner, operator or occupant violates Section 17(a), the Director shall be authorized to issue to such person a copy of charges and summons, directing the person to appear before the Court at a specified time and place to answer the charges. Service of such charges and summons shall be accomplished as provided by State Law.

(b) **Emergency Power.** Notwithstanding any other provisions of this Code, whenever the Director shall determine that conditions constitute a clear and present danger or hazard to person or property, the Director shall be authorized to cause the charges and summons provided by subsection (a) hereinabove to issue instanter or to take any other appropriate action necessary to correct said conditions.

(c) **Hearings; Orders.**

(1) The Court shall hear the evidence and determine whether or not the person named in the summons has violated this Code as charged. The Court shall enumerate the conditions that it determines are in violation of this Code and impose or require appropriate penalties for each such violation.

(2) The Court shall issue a written finding of fact and conclusion of law incorporating the enumerated conditions and penalties referred to in Subsection (1) and shall provide a copy of said order to the defendant and Director.

(3) **Placarding of Occupied Property.** Occupied property shall be placarded only by order of the court after the property has been adjudicated to be unfit for human habitation.

(d) **Penalties.** Failure to comply with any provision of this Code shall constitute an offense and shall be punishable as follows:

(1) Each separate violation of this Code shall be punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both.

(2) A second conviction for violation of this Code shall be punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both.

(3) A third or subsequent conviction for violation of this Code shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both.

(4) Where a person shall be convicted of more than one (1) offense and sentenced to imprisonment, said sentences shall be served concurrently; provided, however, the judge may, in his discretion, direct that these sentences run severally if said sentence would not exceed one hundred eighty days.

(5) Any or all of the penalties prescribed in this Subsection may be imposed upon the appropriate officers or partners of a corporation, partnership or other legal entity which acts unlawfully pursuant to Section 17(a).

(e) **Separate Offenses.** Any person failing to comply with any provision of this Code shall be guilty of an offense. Each and every day the condition is maintained or the activity is conducted after the expiration of all reasonable time given to comply with any provision of this Code shall constitute a separate offense as to each violation of the Code and shall be punishable as provided in Subsection (d) hereinabove.

(f) Any person who knowingly and willingly aids another in violating the provisions of this Code shall be a party to the offense and subject to the penalties provided hereinbefore.

(g) Reports of Disposition of Cases. The Clerk of Municipal Court shall prepare weekly reports of the disposition of Housing Code Cases and distribute said reports to the Director.

(Ord. No. 1995-51, § I, 8-9-95; Ord. No. 1998-52, § 1, 7-13-98)

Sec. 19. Highly Hazardous Conditions.

It shall be unlawful for any owner or operator to allow, or for any occupant to cause the following highly hazardous property conditions, any of which may constitute a nuisance as defined in Section 6 and 12.

(a) Roofs, floors or supporting members, including, but not limited, to girders, sills, joists and studs, which show thirty-three per cent (33%) or more damage or deterioration or which are of insufficient size or strength to safely support imposed loads;

(b) Nonsupporting enclosing or outside walls or coverings which show fifty per cent (50%) or more damage or deterioration;

(c) Defective or improperly maintained electrical, heating, ventilation, sanitation or like facilities which endanger or insufficiently protect the health, safety or general welfare of occupants;

(d) Means of egress and ingress, which in the determination of the Director, are defective or unsafe, or substantially smaller than the dimensions required by law;

(e) Vacant Dwellings which are open and unsecured against unforced entry;

(f) Conditions which, in the determination of the Director, are dilapidated, decayed, unsafe, unsanitary or that unreasonably expose occupants or the general public to illness, disease or physical injury;

(g) Conditions which in the determination of the Director, unreasonably expose occupants to rain, moisture or cold air;

(h) Any other condition which, in the determination of the Director, is unsafe, unsanitary or dangerous to the health, safety or general welfare of the occupants or general public.

ARTICLE II. MINIMUM STANDARDS* _____

*Code of ordinances reference--Minimum structural standards for FHA 221 housing, § 54-32. _____

Sec. 20. Minimum Standards for Base Equipment and Facilities.

Every applicable dwelling unit and its premises shall conform to this Section unless otherwise stated herein, the owner and/or operator shall be responsible to provide or supply and maintain all required equipment and facilities.

(a) Bathroom. Each dwelling unit shall contain a bathroom.

(1) The bathroom shall be a room containing no less than thirty-five (35) square feet in area within the exterior walls of the unit and shall afford privacy to a person therein. When existing buildings do not meet these standards, alternative arrangements of fixtures and space may be approved by the Director;

(2) The bathroom shall contain a flush water closet, lavatory basin and bathtub or shower and an approved interior door and latch to afford privacy to the occupant. Plumbing and other fixtures shall be maintained in good operating condition and shall be free from leaks, defects, obstructions and other unsanitary conditions.

(b) Kitchen. Every dwelling unit not within a dormitory shall contain a kitchen within the outside walls of the unit. The kitchen shall contain a kitchen sink, separate and apart from the lavatory basin required under subsection (a) (2) herein, along with cabinets or shelves for storage of equipment and utensils, work space and adequate space for a stove and a refrigerator. Plumbing and other fixtures shall be maintained in good operating condition and shall be free from leaks, defects, obstructions and other unsanitary conditions.

(c) Water supply and sewer system. Every kitchen sink, lavatory basin, bathtub, shower, flush water closet or other plumbing appurtenances shall be properly connected to an approved water supply and public sewer or to an approved sewerage disposal system. All sinks, lavatory basins, bathtubs and showers shall be supplied with both hot and cold running water and shall be maintained in good operating condition. It shall be the responsibility of the property owner, operator or agent to furnish the required water supply to the occupants of dwelling units in buildings containing or designed to contain two or more dwelling units which are served by the same water meter.

(d) Water Heating Facilities. Every dwelling shall contain water heating facilities which shall be properly connected with the hot water lines required under the provisions of Subsection (c) hereinabove and which shall be maintained in good operating condition. Such facilities shall be capable of heating water so as to permit a reasonable amount of water for ordinary usage to be drawn at any required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred (100°) degrees Fahrenheit within a reasonable time after fully opening the fixture outlet. All water heating facilities shall be properly installed and provided with all appropriate safety valves and vents as required by the City of Atlanta Plumbing, Gas and Mechanical Codes.

(e) Means of Egress. The provisions of the National Fire Prevention Association, Life Safety Code of 1981 for existing dwellings are hereby incorporated by reference and made a part of this Code.

(f) Smoke Detectors. Approved smoke detectors shall be installed on each level of every dwelling unit, which when activated shall give an alarm audible in all sleeping areas

(g) Garbage Facilities. Every dwelling unit shall have adequate serviceable garbage facilities or covered garbage storage containers of the size and type prescribed by the City's Bureau of Sanitary Services.

Charter reference(s)--Adoption of standard codes of technical regulations by reference, § 2-404.

State law reference(s)--Constitutional authority to adopt building code, Ga. Const. art. IX, § II, ¶ III(a)(12).

Sec. 21. Minimum Standards for Light, Ventilation and Heating.

(a) Total Window Area. Every habitable room shall have at least one transparent or translucent window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight (8%) of the floor area of such room; except that, whenever walls or other portions of structures are located less than three feet from the window and extended to a level above that of the ceiling of the room, the minimum total window area, measured between stops, shall be twelve (12%) per cent of the floor area of such a room. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least eight (8%) per cent of the total floor area of such room. Exceptions to the requirements of this Subsection shall be permitted by the Director where the room is air conditioned or mechanically ventilated and adequately lighted in a manner which satisfies the requirements of any other applicable City code.

(b) Adequate Ventilation. Every habitable room shall have at least one window or skylight which can be opened easily, or such device as the Director determines will adequately ventilate the room.

(c) Window Area. The total window area which can be opened in every habitable room shall be equal to at least forty-five (45%) percent of the window area as required in Subsection (a) hereinabove, except where some other device is supplied which the Director determines provides adequate ventilation and lighting.

(d) Light and Ventilation for Kitchen, Bathroom and Water Closet Compartment. Every kitchen, bathroom and water closet compartment shall comply with the light and ventilation requirements for a habitable room contained in

Subsection (a) and (b) hereinabove, provided that an exception to this requirement shall be permitted by the Director where such room is air conditioned or mechanically ventilated and adequately lighted.

(e) Electrical Service. Every habitable room and kitchen in such dwelling shall contain at least two separate floor or wall-type electrical convenience outlets in addition to an outlet for general illumination or a third electrical convenience outlet. Every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one supplied ceiling or wall-type electric light fixture. Each bathroom or water closet compartment shall also have at least one electrical convenience outlet which may be a part of a wall type fixture. All electrical fixtures, receptacles, outlets, equipment and wiring shall be maintained in good repair and in safe and satisfactory operating condition, and shall be installed and connected to a suitable electric circuit in accordance with the Electrical Code of the City. All bathroom or water closet convenience outlets shall be properly connected to an approved ground fault interrupt device.

(f) Heating Facilities. Every dwelling unit shall be provided with primary heating facilities which, shall be installed in accordance with the City of Atlanta's Heating, Ventilation and Air Conditioning Code and shall be capable of safely and adequately heating each habitable room, kitchen, bathroom or water closet compartment to a temperature of seventy-two (72°) degrees Fahrenheit in the area three feet above the floor and three feet from the exterior wall when the outside temperature is twenty-two (22°) degrees Fahrenheit.

(1) The following heating facilities, for the purpose of this Code, shall not be considered a primary heating facility:

- a. open Fireplaces
- b. portable heaters (including electric and liquid fired heaters)

(2) Gas fired heaters installed in bedrooms or rooms generally kept closed shall be of the vented type and shall be connected to an effective chimney or gas vent and equipped with a 100% safety shut-off device;

(3) All unvented gas fired room heaters shall be equipped with an oxygen depletion sensitive safety shut-off system. Unvented room heaters shall not be installed in bedrooms or other sleeping rooms;

(4) All heating equipment shall be listed and installed in accordance with the listing and the manufacturers instructions;

(5) Whenever the supply of heat from heating equipment is controlled by the owner, operator or person other than the tenant, such person shall supply heat to all occupied dwelling units from September 15th through May 1st of each year in such amounts as is necessary to maintain a minimum temperature of:

- 68 degrees Fahrenheit from 7:30 A.M. to 10:30 P.M.
- 63 degrees Fahrenheit from 10:30 P.M. to 7:30 A.M.

(g) Hall and Stairway Lighting. The provisions of the National Fire Protection Association Life Safety Code of 1981 for existing dwellings are hereby incorporated by reference and made a part of this Code.

(h) Insect Protection Screens. Every door opening directly from a dwelling unit to outdoor space shall be supplied with a fourteen by eighteen inch mesh wire screen or equivalent protective screen; and, with the exception of sliding glass doors, shall possess a selfclosing device consisting of at least a spiral spring. Every window with an opening to outdoor space used or intended to be used for ventilation shall likewise be supplied with adequate screens. Such screens shall not be required for doors or windows in rooms which are air conditioned or mechanically ventilated, nor shall they be required above the fourth floor of a building, unless specifically required by the Director because of insect prevalence.

(i) Rodent Protection Screens. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

Charter reference(s)--Adoption of standard codes of technical regulations by reference, § 2-404.

State law reference(s)--Constitutional authority to adopt technical code, Ga. Const. art. IX, § II, ¶ III(a)(12).

Sec. 22. Safe and Sanitary Maintenance of Dwellings.

(a) Generally. The construction or installation of every new supplied facility, piece of equipment or utility which is required under Article II of this Code, shall be governed by the pertinent City code for construction or installation and shall be approved and permitted by the appropriate division and following its construction or installation, every supplied facility, piece of equipment or utility shall be maintained in satisfactory and safe working condition.

(b) Prohibited Acts. No owner, operator or occupant of any occupied dwelling shall willfully cause the removal, interruption or discontinuance of any utility service or of any required service, facility or equipment except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies. Failure to comply with this provision is unlawful and shall constitute an offense as provided in Section 18(d).

(c) Storage of Flammable liquids prohibited. A dwelling, Multifamily dwelling, dwelling unit, or rooming unit shall not be located within a building containing any establishment handling, dispensing or storing of flammable liquids with a flash point of one hundred ten (110) degrees Fahrenheit or lower.

Sec. 23. Structural Requirements, Exterior and Interior.

Every foundation, exterior and interior wall, appurtenances, roof and all other exterior surfaces shall be maintained in a state of workmanlike maintenance and repair and shall be substantially free from decay and deterioration, weathertight, watertight, safe, sanitary and rodent proof.

(a) Foundation. The foundation elements shall be capable of supporting the building and any load which normal use may cause to be placed thereon and shall be maintained in sound condition and workmanlike maintenance and repair.

(b) Exterior Walls. Exterior walls shall be substantially free of holes, breaks, splits or loose or decayed boards or members, and of any other defects which allow penetration of moisture or other elements of weather to the interior portions of the walls or to the habitable areas of the building, and shall be maintained in sound condition and workmanlike maintenance and repair.

(c) Roofs. Roofs shall be structurally sound and tight; shall have no defects which admit moisture or cause dampness in the walls or interior portion of the building; and shall be maintained in sound condition and workmanlike maintenance and repair.

(d) Stairs and Porches. Inside and outside stairways and porches and any appurtenances thereto shall be capable of supporting loads that normal use may cause to be placed thereon, and shall be maintained in sound condition and workmanlike maintenance and repair.

(e) Protective Railings. Protective railings capable of supporting loads that normal use may cause to be placed thereon shall be required on any unenclosed portion of the building more than thirty inches above ground level or on any stairs containing four (3) or more risers.

(f) Windows. All windows and their appurtenances shall be maintained in sound condition and workmanlike maintenance and repair as follows:

(1) Every window sash shall fit substantially tight within its frame, shall be fully supplied with tightly fitting panes which are glass or a suitable glass-substitute and which are without cracks or holes, and shall be sealed against the muntins with glazing compound or any other suitable sealers;

(2) Every window, other than a fixed window not designed for ventilation, shall be capable of being easily opened, held in position, and secured in the closed position by window hardware;

(3) Every exterior window frame shall be plumb and square and in such relation to adjacent wall construction so as to exclude water and substantially exclude cold air from entering the dwelling or dwelling unit.

(g) Interior Doors. All interior doors shall fit reasonably well within their frames and all such doors and the hinges and latches thereon shall be maintained in sound condition and workmanlike maintenance and repair.

(h) Exterior Doors. All exterior doors shall be maintained in sound condition and shall have suitable door hinges, latches and locks reasonably capable of resisting illegal entry and maintained in sound working condition and good repair. Such doors shall be plumb and square within their frames so as to exclude water and rodents and substantially exclude cold air, moisture and insects from entering the dwelling.

(i) Exterior Door Frames. All exterior door frames shall be maintained in sound condition and shall be plumb and square and in such relation to adjacent wall construction so as to exclude rain and substantially exclude cold air from entering the dwelling or dwelling unit.

(j) Interior Floors, Walls and Ceilings. All interior floors, walls and ceilings, along with their structural supports, shall be substantially weathertight, vermin and rodent proof and shall be maintained in sound condition and workmanlike maintenance and repair as follows:

(1) Plaster or dry wall finish on walls and ceilings shall be tight and free from holes or breaks;

(2) Floors shall be free of decay, holes, breaks, loose or warped members; reasonably level; safe; and capable of supporting the load which normal use may cause to be placed thereon;

(3) Kitchen and bathroom interior walls and floors shall be substantially impervious to moisture so as to protect such walls and floors and permit these surfaces to be maintained in a clean, safe and sanitary condition.

(k) Protective Treatment. All exterior wood surfaces other than cedar, cypress or redwood shall be protected from the elements and decay by paint or other protective covering or treatment. All interior building surfaces shall be protected from damage by decay, ordinary use and corrosion. Exterior metal surfaces shall be protected from corrosion by paint or other protective covering.

(l) Supporting Structural Members. The supporting structural members of every building used, designed or intended to be used for human habitation, including, but not limited, to sills, rafters, joists, girders, beams, headers, lintels and studs shall be maintained in sound condition and workmanlike maintenance and repair and shall show no evidence of decay or deterioration which would render them incapable of carrying loads placed thereon by normal use.

Sec. 24. Minimum Space, Use and Location Requirements.

Every applicable dwelling and its premises shall conform to this Section.

(a) Required Space in Dwelling Units. Every dwelling unit shall contain a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant, and one hundred (100) square feet for each additional occupant. This floor area shall be calculated on the basis of the total habitable area of all habitable rooms.

(b) Sleeping Room Floor Space. In every dwelling unit of two or more rooms, every room occupied for sleeping by one occupant, except as indicated in Subsection (e) hereinafter, shall contain at least seventy (70) square feet of floor space; and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.

(c) Ceiling Height. At least one-half of the floor area of every existing habitable room shall have a minimum ceiling height of seven (7) feet. The floor area of that part of any currently existing room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(d) Conditions for Inhabiting Basements. No cellar shall be used as a habitable room. No basement shall be used as a habitable room or dwelling unit unless the following requirements are met:

(1) The floor and walls are impervious to leakage of underground and surface run-off water and are adequately protected against dampness;

(2) The required minimum window area is located entirely above the grade of the ground adjoining such window area or is equipped with a window well providing adequate light and ventilation;

(3) The basement complies with all other appropriate provisions of Section 20-26.

(e) Standards for Charitable and Similar Institutions. In charitable institutions, day nurseries and like locations, where persons are provided free or emergency sleeping facilities in large numbers for brief periods of time and on a fluctuating basis, the minimum standards specified herein in subsections (a) and (b) may be reduced by fifty (50%) per cent upon the written approval of the Director.

Sec. 25. Owner and Tenant Responsibility for Cleanliness of Property.

(a) It shall be the lawful duty of the owner or operator and the occupant of any premises, within their respective areas of responsibility as specified hereinbelow to keep interiors and exteriors, including premises, yards, lawns, courts and alleys clean, clear and free of any public or attractive nuisance, accumulation of dirt, junk, junk vehicles, rubbish, garbage, debris, combustible materials, kudzu, excessive growth of weeds, grass, shrubs, bushes or similar matter conducive to rodent, vermin or insect infestation. Interiors and exteriors shall also be kept clean, clear and free of any conditions conducive to the spread of fire or disease. Responsibility for cleaning the interior of dwelling units shall include keeping the walls, floors and ceilings sanitary and free from accumulation of dirt or trash, and where appropriate, may require a coating on interior surfaces to make them resistant to vermin and insect infestation.

(b) It shall be the specific responsibility of the owner or operator:

(1) To comply with Section 20 of this Code;

(2) To maintain cleanliness of Shared or Public Area;

(3) To maintain cleanliness of vacant dwellings. Every owner or operator of a vacant dwelling shall be responsible for maintenance of the interior, exterior and premises in a clean sanitary condition and secured against unauthorized entry;

(4) To maintain screens. Every owner or operator of a dwelling unit shall, before renting such dwelling unit, provide serviceable screens and screen doors whenever the same are required under the provisions of this Code; and, when necessary such screens shall be replaced by the owner or operator due to deterioration occasioned by normal wear and tear only;

(5) To provide for the extermination of Insects, Rodents and Other Pests. Every owner or operator of a dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the property; provided that, every occupant shall be required to eliminate or minimize the presence of pests by performing the duties under Subsection (c).

(c) It shall be the specific responsibility of the tenant for the:

(1) Maintenance of the unit which he or she occupies. Every tenant of a dwelling unit shall keep in a sanitary condition and upon departure shall leave, in a clean and sanitary condition, that part of the dwelling unit and property thereof which the tenant used or possessed;

(2) Maintenance of screens. Every tenant of a dwelling unit shall be responsible for maintaining such screens and screen doors in good serviceable condition except deterioration occasioned by normal wear and tear;

- (3) The maintenance of plumbing fixtures and other fixtures. Every tenant of a dwelling unit shall be responsible for exercising reasonable care in the use of plumbing and other fixtures in the dwelling unit and its premises;
- (4) The maintenance of the Dwelling Unit. Every tenant of a dwelling unit shall be responsible for exercising reasonable care in the use of the dwelling and its premises. The tenant shall not place on the premises, any material which may cause a fire hazard or otherwise endanger the health or safety of any tenant of such dwelling, nor place in storage on the premises any furniture, equipment, or material which harbors insects, rodents, or other pests;
- (5) The maintenance of batteries, where utilized, in smoke detectors that are provided in accordance with Section 20(f);
- (6) The providing of access at reasonable hours to dwelling units for owners or operators to provide routine maintenance and extermination of insects or rodents;
- (7) Every tenant shall dispose of his/her garbage or rubbish in a sanitary manner;
- (8) Every tenant of a single family dwelling shall be responsible for the extermination of any insects, rodents or other pests;
- (9) Every tenant of a dwelling or dwelling unit causing damage to said premises so that it does not comply with the requirements of this Code, shall be subject to the penalties hereof, and shall be responsible for all damage to the real property within an occupant's possession or control. If an inspection of a dwelling or dwelling unit prior to or subsequent to the leasing thereof, indicates that it complies with all Codes, Ordinances and Statutes relating thereto, the tenant in possession at the time of said inspection or if there is no tenant in possession at said time, then the next tenant shall be presumed to have caused said damage/or Code violation as the case may be.
- (d) It shall be unlawful for the owner, occupant or operator of any lot, tract, parcel of land or premises in the City of Atlanta, to have, permit or allow any junk vehicle to be parked, let or maintained thereon; and it shall be unlawful for any person to cause, have, let, maintain or place such a junk vehicle on the real property of another. Except that it shall not be unlawful to maintain, in an otherwise lawful manner:
- (1) Any vehicle in an enclosed building;
 - (2) Any vehicle on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or
 - (3) Any vehicle on property occupied and used for repair, reconditioning and remodeling of motor vehicles in conformance with the zoning ordinances of the city.

The Provisions of this Section shall not waive the owner of the responsibility to make repairs.

(Ord. No. 1996-79, § 6, 11-12-96)

Sec. 26. Rooming Houses, Boarding Houses, Residence Hotels, Single Room Occupancy Residences and Buildings with Special Uses.

Every rooming house, boarding house, residence hotel, single room occupancy residence and building with a special use shall conform to the requirements of this section.

- (a) Permit and License. No person shall operate a rooming house, boarding house, residence hotel, apartment hotel or single room occupancy residence unless such person holds a valid and current permit issued by the Police Department and a valid and current business license. The permit and license shall be in the name of the operator for the specific location where the business is to be located. The permit and business license shall at all times be displayed in a conspicuous and public place within the business. The permit and license are for regulatory purposes and shall not be transferable.

(b) Recommendations for Revocation of Permits. Whenever, upon inspection of any building regulated under this section, the Director finds that conditions or practices exist which are in violation of any provisions of this Code, or of any rule or regulations adopted pursuant hereto, notice shall be given in writing to the operator of such house that the existence of such conditions or practices is unlawful and, unless they are corrected within a reasonable period to be determined by the Director, revocation or the operator's permit will be recommended to the License Review Board of the City. At the end of the designated period, the Director shall reinspect such building and, if it is found that such conditions or practices have not been corrected, the Director may file with the License Review Board a written recommendation that such permit be revoked, stating the reasons therefor. This shall not prevent the Director from taking any other appropriate action against the owner or operator for violations of this Code.

(c) Flush Water Closets, Lavatory Basins, Bathtubs and Showers. At least one flush water closet, one lavatory basin and one bathtub or shower properly connected to an approved water/sewer system shall be supplied for each eight persons or fraction thereof residing within a rooming house, boarding house, or single-room occupancy residence, including members of the operator's family whenever they share the use of such facilities. Where rooms are let only to males, flush urinals may be substituted for not more than one-half the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin, bathtub or shower shall be supplied with both hot and cold running water at all times.

(d) Floor Space. Every room occupied for sleeping purposes by one person shall contain at least one hundred (100) square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least fifty (50) square feet of floor space for each additional occupant thereof.

(e) Means of Egress. Every room unit or boarding unit shall have safe and unobstructed means of egress leading to safe and open space at ground level as required by the laws of this City and State.

(f) The operator shall be responsible for the sanitary maintenance of the building, including the exterior premises.

Sec. 26. Rooming Houses, Boarding Houses, Residence Hotels, Single Room Occupancy Residences and Buildings with Special Uses.

(g) The operator may prepare one or more meals to be served on a regular basis in boarding houses. Community kitchens are expressly prohibited in rooming houses.

(h) Each community kitchen as defined herein shall have one (1) refrigerator per twelve (12) residents except that one (1) refrigerator per community kitchen shall be required when each residential room contains an individual refrigerator.

(i) Each residence and single-room occupancy residence shall contain a common area of not less than five (5) square feet per dwelling or dwelling unit with a minimum of 250 square feet. Common areas for this purpose shall include central lobby, recreation, meeting and dining rooms, and community kitchens. Not included are bathrooms, laundries, vending areas and hallways.

(j) On site management and provisions for check in and check out shall be provided on a 24-hour basis for each single-room occupancy residence, and the operator shall make the premises available at any time to the Police Department and shall make the premises available for inspection by the Bureau of Buildings at any reasonable time.

(Ord. No. 1991-05, § 1, 1-29-91)

Code of ordinances reference--Hotels, motels and rooming houses, § 30-751 et seq.

Sec. 27. Standards for Owner-Occupied Single Family Structures.

Every owner-occupied single family structure shall conform to the requirements set forth in this Section and Section 19 of this Code.

(a) Exterior walls shall be substantially free of holes, breaks, splits, loose or decayed boards or member, and of any other defects which allow penetration of moisture or other elements of weather to the interior portions of the walls or to the habitable areas of the building, and shall be maintained in sound condition and workmanlike maintenance and repair.

(b) All exterior wood surfaces other than cedar, cypress or redwood shall be protected from the elements and decay by paint or other protective coating or treatment; and exterior metal surfaces shall be protected from corrosion by paint or other protective covering.

(c) The exterior of the dwelling, including its premises, yards, lawns, courts and alleys, shall be kept clean, clear and free of any accumulation of filth, rubbish, garbage, debris, combustible materials, junk, junk vehicles, kudzu, excessive growth or weeds, grass, shrubs, bushes or other matter conducive to rodent, vermin or insect infestation. The dwelling also shall be kept clean, clear and free of conditions conducive to rodent, vermin or insect infestation. The dwelling also shall be kept clean, clear and free of conditions conducive to spread of fire or disease.

(d) A permanently fixed lavatory basin connected to an approved water supply with running water and connected to an approved sewage disposal system shall be provided.

(e) A permanently fixed kitchen sink connected to an approved water supply with running water and connected to an approved sewage disposal system shall be provided.

(f) Heating facilities shall be provided with primary heating facilities which, shall be installed in accordance with the City of Atlanta's Heating, Ventilating and Air Conditioning Code and shall be capable of safely and adequately heating each habitable room kitchen, bathroom or water closet compartment to a temperature of seventy-two (72°) Fahrenheit in the area three feet above the floor and three feet from the exterior wall when the outside temperature is twenty-two (22°) degrees Fahrenheit.

(1) The following heating facilities, for the purpose of this Code, shall not be considered a primary heating facility:

(1) Open fireplaces

(2) Portable heaters (including electric and liquid fired heaters)

(2) Gas fired heaters installed in bedrooms or rooms generally kept closed shall be of the vented type and shall be connected to an effective chimney or gas vent and equipped with a 100% safety shut-off device;

(3) All unvented gas fired room heaters shall be equipped with an oxygen depletion sensitive safety shut-off system. Unvented room heaters shall not be installed in bedrooms or other sleeping rooms;

(4) All heating equipment shall be listed and installed in accordance with the listing and the manufacturers instruction;

(g) Approved smoke detectors shall be installed on each level of every dwelling unit, which when activated shall give an alarm audible in all sleeping areas.

(h) A functioning flush water closet properly connected to an approved water supply and sewage system shall be provided in a room separate from other living areas; with an approved interior door and latch to afford privacy to the occupant.

(i) Any electric circuit, including wires fixtures and outlets, shall be maintained in a workmanlike state of maintenance and repair; adequate overcurrent protection based on existing use shall be provided.

(j) Any plumbing or gas system, including piping, fixtures and outlets, shall be maintained in a safe condition.

(k) Any heating, cooling or cooking system using combustible fuel shall be properly ventilated;

- (l) The roof shall be free of leaks or other defects which admit moisture;
- (m) All windows shall contain glass or a suitable glass substitute;
- (n) A covered storage container of the size and type prescribed by the Department of Public Works or otherwise serviceable garbage facilities shall be maintained.

(Ord. No. 1996-79, § 7, 11-12-96)

Sec. 28. Posting of assigned numbers.

The owner of any improved parcel of land in the city shall cause the officially assigned street number for such parcel to be posted on the front of the building or in the front yard so as to be clearly visible from the street. Street numbers shall be posted in numerals no less than two and one-half inches in height.

(Ord. No. 1998-26, § 4, 5-12-98)

Sec. 29. Minimum Specifications to Abate Interior Requirements in Vacant Dwelling Units.

(a) When a dwelling is vacant, the full application of this Code shall be held in abeyance for a period not to exceed six months, provided, that the exterior complies with the applicable provisions of this Code; the interior has been cleaned of trash, rubbish and debris; and the dwelling has been secured in accordance with the specifications set forth in Subsection (b) hereinafter and in Exhibit "A". After said period of abeyance, the dwelling shall be brought into full compliance with the provisions of this Code.

(b) The minimum specifications to secure a vacant dwelling to abate interior requirements shall be as follows unless otherwise approved in writing by the Director:

- (1) Except for the front door, all windows and doors on all levels, through which access to the interior of the dwelling can be made, shall be secured from the interior of the building with 1/2" exterior grade plywood sheathing, as shown in Exhibit "A";
- (2) All window boards shall be fit to screen inset molding as shown;
- (3) All fabricated boards shall be painted with one coat of primer on the exterior surface;
- (4) All 2"X4" interior wood stock used in securing the sheathing shall be padded with carpet type material of minimum dimensions 4"X8" permanently attached. This padding shall be adjusted to prevent damage to interior walls and wood trim;
- (5) A dead bolt lock shall be installed on the front exterior door above the existing lock.

(c) Maintenance of a secured vacant dwelling. All openings specified in Section 29(b) herein, must remain secured in the manner prescribed in Section 29(b) herein and the exterior of the dwelling must remain in compliance with all applicable provisions of this Code. Failure of the owner, operator or agent to maintain the secured vacant dwelling as prescribed herein shall subject them to legal action without further notice from the Director.

(Ord. No. 1998-59, § 1, 9-17-98)

ARTICLE III. IN REM PROCEDURES

Sec. 30. Scope.

(a) The In Rem procedure set forth in this Article shall be in addition to any of the procedures set forth elsewhere in this Code. These procedures shall apply to any building or structure regulated by the Atlanta Housing Code or the Atlanta Commercial Institutional and Industrial Building Maintenance Code.

(b) For the Purpose of this Article, the words hereinbelow shall have the following respective meanings.

Applicable standards shall mean:

(1) For Residential Buildings, Section 19 through Section 26 of the Atlanta Housing Code;

(2) For Commercial, Industrial or Institutional Buildings, Section 2090 of the Commercial Institutional and Industrial Building Maintenance Code.

Unfit for occupancy or habitation shall mean: a finding of fact by the In Rem Review Board, of violations of the applicable standards to the extent that the health, safety, general welfare and well being of the occupants or the general public are insufficiently protected.

Value shall mean: the fair market value of a dwelling or building exclusive of the foundation and lot, as determined by the Board in compliance with the applicable standards set forth in this Code.

Sec. 31. In Rem Review Board.

(a) Creation. There is hereby created and established an In Rem Review Board to conduct hearings as provided in Section 32 of this Code and to have other functions, powers and duties as may hereafter be prescribed by the Council of the City.

(b) Composition; Qualifications; Term of Office. The Board shall be composed of five (5) members, each of whom shall be a City resident; and shall select a Chairperson from its membership. Members shall be nominated by the Mayor and confirmed by the Council. One (1) member shall be a person regularly engaged in residential construction or architecture; one (1) member shall be a person engaged in residential finance or general business and three (3) members shall be persons not otherwise eligible for appointment. The initial Board shall contain two (2) members appointed for a term of two (2) years and three (3) members appointed for a term of three (3) years. The Mayor shall recommend to Council for its approval the removal of a member of the Board for non-performance of duty. Any vacancy in the membership of the Board shall be filled for the unexpired term by the same manner of appointment as provided hereinabove.

(c) Compensation. Each member of the Board shall be paid \$25.00 for each meeting the member attends.

(d) Meetings; Quorum. The Board shall meet monthly or on the call of the presiding officer in a room of adequate size at City Hall. Three (3) members shall constitute a quorum for any meeting of the Board. The vote of at least a majority of a quorum shall be required to constitute action by the Board on any question or matter before it.

(e) Minutes; Adoption of Rules. The Board shall keep accurate minutes; and such minutes shall include records of each member's presence, vote or abstention as to each question, as well as the Board's other official actions. All such minutes shall be filed in the office of the Bureau of Buildings and shall be public records. The Board shall adopt rules for the conduct of its business and affairs.

Sec. 32. Inspection and Notice of Hearing.

(a) Inspection and Notice of Hearing. Whenever a written request for inspection is filed with the Commissioner of the Department of Housing by a public official or by at least three (3) residents of the City charging that any dwelling or building is: unfit for human habitation or other use, or whenever it otherwise appears to the Commissioner of the Department of Housing that any dwelling or building is unfit for occupancy or habitation, or if a report has been made by the Commissioner of the Department of Housing pursuant to the Nuisance Abatement provisions of the Code of Ordinances, Section 17-9016 [now § 74-171], pertaining to the existence of any drug crime on vacant, dilapidated dwellings or buildings, the Commissioner of the Department of Housing shall, if preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and/or parties in interest of such dwelling or building a notice stating therein the Commissioner of Housing's findings and notifying such person that:

- (1) A hearing will be held before the In Rem Review Board at a place within the City on a specified day and time which shall not be less than ten (10) days after the service of said notice;

Sec. 32. Inspection and Notice of Hearing.

- (2) The owner and/or parties in interest shall be given the right to file an answer to the notice and to appear in person or otherwise to give testimony at the hearing at the place and time stated in the notice;

- (3) The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing;

- (4) The Board shall have the authority to administer oaths, affirmations, examine witnesses and receive evidence at the hearing.

- (b) Files. The Director shall develop and maintain a file on each property and shall enter therein the minutes which shall be taken at each hearing conducted on the property.

(Ord. No. 1993-75, § I, 9-28-93)

Sec. 33. In Rem Review Board Hearing.

- (a) The Board shall conduct a hearing on each property presented to it and make the following determinations:

- (1) When the property is occupied, the Board shall determine if the property is unfit for occupancy or habitation.

- (2) The percent of deterioration or damage exclusive of foundation and lot.

- (3) The value of the Building after repairs have been made exclusive of foundation and lot.

- (4) The cost of repairs necessary to bring the building into compliance with the Atlanta Housing Code or the Atlanta Commercial, Institutional and Industrial Building Maintenance Code exclusive of foundation and lot.

- (5) If after the In Rem hearing, drug crimes are found to have been committed in vacant buildings, dwellings or structures, the Board shall issue an order to the Commissioner of the Department of Housing to demolish the property if the property is more than fifty percent (50%) deteriorated.

The Board shall state its finding of fact in writing.

- (b) In Rem Review Board Orders:

- (1) After notice and hearing, if the Board finds that any building is unfit for occupancy or habitation, it shall issue an order directing the Director to place a signed and dated placard on the structure stating:

"WARNING. This property has been determined by the City of Atlanta In Rem Review Board to be unfit for habitation or occupancy and in violation of the Atlanta Housing Code/The Atlanta Commercial, Institutional, and Industrial Building Maintenance Code. It shall be unlawful for this building to be occupied after 30 days from the date of this notice, until the property has been rendered fit for human habitation or occupancy in a manner satisfactory to and approved by the Director of the Bureau of Buildings. Mutilation or unauthorized removal or defacing of this placard shall be an offense punishable by fine and/or imprisonment."

- (2) If the Board finds that any building can be repaired at less than 50% of the value, exclusive of foundation and lot, it shall issue an order stating:

- a. That the building has been found unfit for occupancy or habitation or other use and can be repaired, improved or altered at a cost constituting a specific percent of the value of the building;

- b. An enumeration of conditions shall be made which render the dwellings or buildings unfit for habitation or occupancy other uses as well as an enumeration of remedial action necessary to correct each of these conditions;
 - c. A specified period of time reasonably set in relationship to the necessary remedial action, within which such action shall be completed;
 - d. A statement that the owner, and/or party in interest may vacate and comply with Section 29 to abate interior requirements;
 - e. A statement that, should the owner and/or parties of interest fail to make the repairs or vacate and comply with Section 29 within the prescribed time, the Director shall cause such building to be vacated, cleaned and closed. The amount of the cost of such vacating, cleaning and closing by the Director shall be a lien against the real property for the cost incurred.
- (3) If the Board finds that the property cannot be repaired at cost of less than 50% of the value, exclusive of foundation or lot, it shall issue an order stating:
- a. The building has been found unfit for occupancy or habitation and cannot be repaired, improved or altered at a cost less than 50% of the value;
 - b. A specified period of time reasonably set directing the owner and parties of interest to commence and complete the vacating and removal or demolition of said building, the cleaning of the premises and planting of grass on the lot;
 - c. A statement that, should the owner and parties of interest fail to vacate, remove or demolish the structure and plant ground cover on the lot within the specified time, the Director shall cause the building to be vacated, removed or demolished and ground cover planted on the lot. The amount of the cost of such vacating, removal or demolition by the Director shall result in a lien against the real property for the cost incurred;
 - d. The Director shall serve the above orders of the Board on the person in possession, owner and parties of interest.

(Ord. No. 1993-42, §§ I, II, 9-28-93; Ord. No. 1993-75, § II, 9-28-93)

Sec. 34. Occupancy of property unfit for habitation prohibited.

It shall be unlawful for any person, business, or entity to occupy or allow the occupancy of any property which has been declared unfit for human habitation by the In Rem Review Board.

ARTICLE III. IN REM PROCEDURES

Sec. 34. Occupancy of property unfit for habitation prohibited.

(Ord. No. 1998-26, § 5, 5-12-98)

Sec. 35. Failure to Comply with Orders of the Board.

Should the owner and/or parties in interest fail to comply with any order of the Board within the time specified by the Board, the Director shall implement the order, provided however, that said duty shall not be exercised until the City Council, by ordinance containing an appropriate legal description, has ordered the Director to effectuate the purpose of this Article with respect to a particular property.

Sec. 36. Demolition of Buildings.

(a) Actions Required prior to Demolition. No person shall begin demolition until a City building permit for demolition has been secured; and all utilities have been cut off and capped at the street.

(b) Actions Required by the Building Permit. Within the time specified in the building permit required hereinabove in Subsection (a), or the person who has secured such permit shall remove from the premises all debris, trash, litter, rubbish, rubble and foundation exposed above the ground level; fill any excavation or other depressions to existing grade with clean dirt containing no more than twenty-five (25%) per cent stone or masonry; and adequately slope and drain all filled areas.

Sec. 37. Costs Constituting Lien on Property.

The amount of the cost of such vacating and closing or demolition by the Director shall be a lien for such amount against the real property upon which such cost was incurred. Said lien shall attach to the real property upon the payment of all costs of vacating and closing or demolition by the City and the filing by the Director of an itemized statement of the total sum of said cost in the Office of the Clerk of Council on a lien docket maintained for such purposes.

Sec. 38. Procedure for Collection of Amount Due on Lien.

The City Municipal Revenue Collector shall enforce the collection of any amount due on the lien in the following manner:

(a) The owner and/or parties in interest shall be notified of the amount of the lien and shall be allowed to satisfy the amount due on such lien by paying to the Municipal Revenue Collector, within thirty (30) days after the perfection of such lien, a sum of money equal to twenty-five per cent (25%) of the total due on such lien, and by further paying to said Municipal Revenue Collector the remaining balance due, together with interest at the rate of ten (10) per cent per annum, in three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed.

(b) Should such property be sold, transferred or conveyed by the owner and/or parties in interest at any time prior to the termination of the said three (3) year period, the entire balance due on such lien, less unearned interest, shall be due and payable to the City Municipal Revenue Collector;

(c) Should the amount due on such lien, or any portion thereof, be unpaid after it is due, or upon the occurrence of the situation provided for in Subsection (b) hereinabove, the City Municipal Revenue Collector may enforce the collection of any amount due on such lien in the same manner as provided in Georgia Laws O.C.G.A. 48-5-358 and other applicable statutes, all of which shall be subject to the right of redemption by any person having any right, title or interest in or lien upon said property; all as provided by Georgia Laws, O.C.G.A. 48-4-40.

(d) The chief financial officer is hereby authorized to permit deferred or installment payments of assessments and liens by the persons owning such property associated with the cleaning and closing of private vacant structures, the demolition of private structures, and other actions taken by the City of Atlanta to secure private property against other than forcible entry when financial circumstances of all or certain of those persons invite relief. Determination of eligibility for the deferred or installment payments shall be in accordance with standards and guidelines set forth herein and subject to amendment by the council annually.

(e) The chief financial officer is authorized to obtain a promisory note and to permit installment payments or annual payments according to the following schedule:

- Fees up to \$1,000 not to exceed 2 years
- \$1,001 to \$2,500 not to exceed 4 years
- \$2,501 to \$5,000 not to exceed 6 years
- \$5,001 or more not to exceed 8 years

from property owners assessed for those services performed by the city who:

(1) Submit proper proof in the form of an affidavit substantiated by a title report, that they are the owners of the property against which the assessment is made;

(2) Submit proper proof in the form of an affidavit substantiating their inability to obtain other sources of financing in order to perform the services by private contract;

(3) Agree to execute a promissory note in the principal sum of the assessment payable to the city according to the above schedule with interest of twelve percent (12%) per annum from the date of the note, or payable upon the sale or transfer of title of the property by the owner whichever first occurs;

(4) Agree to execute a property security deed transferring the property to the City as security for the payment of the note; and

(5) Agree to provide the City with a waiver of all judicial and quasi-judicial remedies normally available to owners under law.

(Ord. No. 1991-44, § 1, 8-23-91)

Sec. 39. Service of Notices and Orders.

(a) Persons in possession, owners; parties in interest. Notices or orders issued by or served by the Director pursuant to this Article shall, in all cases, be served upon persons in possession of said property, owners and parties in interest. The return of service, signed by the Director, or an affidavit of service executed by any person duly authorized to serve process, reciting that a copy of such notices or orders was served upon persons in possession of said property, owners and parties in interest personally, or by leaving such copy at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; shall be sufficient evidence as to the service of such person in possession, owner, or party in interest.

(b) Residents of State Residing out of City. If an owner or party in interest resides out of the City, but within the State of Georgia, service shall be perfected by causing a copy of such notices or orders to be served upon such party by the sheriff or any lawful deputy of the county of the residence of such party. Such service may also be made by any citizen of this State and the return of service by such sheriff or lawful deputy, or the affidavit of such citizen that such party was served, either personally or by leaving a copy of the notices or orders at the residence, shall be sufficient evidence as to such service.

(c) Nonresidents of State. An owner or party in interest who is a nonresident of the State of Georgia shall be served by publishing the notice or orders once each week for two (2) successive weeks in the daily newspaper in which the legal advertisements of the City are carried. The cost of such advertisements shall be disbursed from the general fund of the City. A copy of such notices or orders shall be posted in a conspicuous place on premises affected by the notices or orders and notice of the pending action shall also be filed on the lis pendens docket in the office of the Clerk of the Superior Court of the appropriate county. Where the address of such nonresident is known, a copy of such notices or orders shall be mailed to such address by registered mail.

(d) Minors; Insane persons. In the event the owner or any party in interest is a minor, an insane person or disabled person, the guardian or personal representative of such person shall be served. If such guardian or personal representative resides outside the City or is a nonresident of the State of Georgia, service shall be made as hereinbefore provided for nonresidents. If such minor, insane person or disabled person has no guardian or personal representative, service shall be perfected by serving such minor, insane person or disabled person personally, or by leaving a copy of said notices or orders at the place of such person's residence, and by serving the Probate Judge of the appropriate county, who shall stand in the place of and protect the rights of such person or appoint a guardian ad litem for such person. In the event such minor, insane person or disabled person lives out of the City or is a nonresident of the State of Georgia, such person shall be served by the method herein provided in the case of other persons who live out of the City or are nonresidents of the State of Georgia, and by serving the Probate Judge of the appropriate county.

(e) Persons whose whereabouts are unknown. In the event the whereabouts of any owner or party in interest is unknown and the same cannot be ascertained by the Director in the exercise of reasonable diligence, the Director shall make an affidavit to that effect, and shall serve any notices of orders upon such person in the same manner as

provided in Subsection (c) herein. Service may also be perfected upon any person, firm or corporation holding itself as an agent for such party in an appropriate manner as provided in this Section.

Sec. 40. Eminent Domain.

Nothing in this Article shall be construed to prevent the owner of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of the State of Georgia, or to permit any property to be condemned or destroyed except in accordance with the police power of this State.

ARTICLE IV. GENERAL PROVISIONS

Sec. 41. Application To Existing Notices and Cases.

It is the specific intent of this Ordinance not to invalidate any active court cases or notices prepared in accordance with the 1980 Housing Code, as amended. For all cases now pending in court, the 1980 Housing Code as amended shall remain in full force and effect until a final determination is made in those cases. All other notices now in existence under the 1980 Atlanta Housing Code shall be subject to the revised Code and shall be valid and enforceable Notices pursuant to this revised Code. This revised Code shall be known as and may be cited as the 1987 Atlanta Housing Code.

Sec. 42. Severability.

If any Section, Subsection, sentence or phrase of this Code is for any reason held to be unconstitutional, such decision shall not effect the validity of the remaining portions of this Code.

Sec. 43. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days from and after its passage and approval.