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Housing Codes in Rhode Island

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MASTER OF COMMUNITY PLANNING

RESEARCH PROJECT

OF

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HOUSING CODES

IN

RHODE ISLAND

ABSTRACT

The purpose of this project is to examine the present status of housing codes in the State of Rhode Island and the ways they can be used to maintain the present housing stock. Housing codes are a legal statement of the minimum acceptable standards for dwellings to maintain the health, safety, comfort and welfare of the occupants. Included in the standards are the basic human needs of light, ventilation and clean water.

Although often thought of as the same thing, housing and building codes are very different. Building codes deal with a building while it is being built and until it is occupied. Housing codes, however, deal with the use, occupancy and maintenance of existing buildings that are occupied as homes. Housing codes are empowered by the police power of the government. They point out the duty of both the owner and the occupant to keep the housing in decent condition. The enforcement of the housing code falls on the local government. Generally the local government is not able to actively enforce the code and as a result the code is unenforced until there is a complaint lodged.

The enforcement of the housing code sets in motion a process that could be used to protect and preserve the

entire housing stock of a city and prevent it from falling into a state of disrepair and possibly abandonment. The extent to which the code is enforced, the size of the staff available to enforce the code and the knowledge of the staff in the aspects of the housing code are all important factors in determining the effectiveness of the code enforcement.

In order to provide an understanding of housing codes, the areas of their history, legal status, administration, and economics will be explored. Rhode Island has a statewide housing code that is to be the adopted model for all the municipalities in the state; a history of that code and a study of the way in which localities and agencies use the code will be included. The municipalities administration of the housing code will be evaluated with the aid of a survey of the localities. The final chapter will cover the techniques that may be used to update or better enforce, in order to improve, the code.

TABLE OF CONTENTS

	Page
ABSTRACT.....	iii
LIST OF TABLES.....	vii
ACKNOWLEDGEMENT.....	viii
CHAPTER I: SUBSTANDARD HOUSING IN RHODE ISLAND.....	1
CHAPTER II: HOUSING CODE BACKGROUND.....	9
Housing Code Definition(9)--Housing Code Administration(10)--Housing Code Enforcement Technique(12)--The Economics of Housing Codes(13)--Government and Housing Codes(18)-- Housing Codes and the Police Power(22)-- Implied Warrant of Habitability(27)	
CHAPTER III: HOUSING CODES IN RHODE ISLAND.....	33
The State Housing Code(35)--Implementation (37)--State Agencies and the Housing Code (39)--Department of Social and Rehabilitative Services(39)--Department of Community Affairs (41)--Department of Children and Family Services(43)-- Department of Mental Health, Retardation and Hospitals(44)-- Chapter Conclusions(46)	
CHAPTER IV: LOCAL GOVERNMENTS AND HOUSING CODES.....	49
Present Status of Local Government and Housing Codes(50)--General Background(51)--Analysis of the Data(52)--Housing Code(52)--Staff(61)-- Office Location(61)--Other Inspections(63)	
CHAPTER V: IMPROVEMENTS AND CONCLUSIONS.....	67
Code Improvements(69)--Code Administration and Enforcement(71)--Code Enforcement and Other Programs(75)--Conclusions(77)	
APPENDIX A: BASIC PRINCIPLES OF HEALTHFUL HOUSING..	80
APPENDIX B: RHODE ISLAND HOUSING MAINTENANCE AND OCCUPANCY CODE.....	83

APPENDIX C: SECTION 8 HOUSING QUALITY STANDARDS AND HOUSING SERVICES UNIT PRE-RENTAL INSPECTION FORM.....	113
APPENDIX D: SURVEY QUESTIONNAIRE.....	120
SELECTED BIBLIOGRAPHY.....	122

LIST OF TABLES

Table		Page
I-1	Estimates of Substandard Dwelling Units.....	2
II-1	Items For Which Standards Are Set in A Modern Housing Code.....	11
II-2	Rehabilitation And Social Life.....	14
II-3	Deprecation Curve.....	15
II-4	Housing Code Effect On Deteriorated Buildings.....	16
IV-1	City And Town Groupings For Data Analysis...	53
IV-2	City And Town Enforcement Of Housing Codes..	54
IV-3	Housing Code Enforced.....	59
IV-4	Municipalities Enforcing Two Housing Codes..	59
IV-5	Type Of Enforcement.....	60
IV-6	Average Staff Size.....	62
IV-7	Housing Inspectors Office Location.....	63
IV-8	Pre-rental And Pre-sale Inspections.....	65

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But most of all I wish to thank my wife, Mary Ann, who did the final typing and without whose encouragement and support neither this report or the last two years would have been possible.

I. SUBSTANDARD HOUSING IN RHODE ISLAND

In July, 1978 the Rhode Island Statewide Planning Program released the State Housing Plan which constituted the housing element of the plan for the social, physical and economic development of the state.¹ The plan established broad state goals and policies to be used for evaluating housing proposals. It also made recommendations for short and long range actions on housing problems for the state and local governments, and in both public and private housing. Criteria for evaluating progress toward these goals were also established.

A part of the report entitled "Housing Problems and Recommendations For Action" deals with substandard and abandoned housing. Table I-1 is a reproduction of a table from the study listing the estimated substandard dwellings by "market area" and city within the state.²

Several facts stand out in reviewing the chart: first, the "Metropolitan Core", centered in Providence, has the largest block of substandard dwelling units in both number and percentage. This area contains some of the oldest and densest housing in the state. This by itself does not mean the units will be substandard. However, the

TABLE I-1

Estimates of Substandard Dwelling Units
(to the nearest hundred dwelling units)

Market Area City/Town	Total Dwelling Units	Substandard Dwelling Units	Percent Substandard
Metro. Core	155,300	42,000	27
Cent. Falls	6,800	1,200	18
Cranston	24,800	3,100	13
E. Prov.	16,900	500	3
Johnston	6,500	200*	3
N. Prov.	9,800	200	2
Pawtucket	28,100	1,800	6
Providence	62,400	35,000	56
Northern R. I.	38,200	1,500	4
Cumberland	7,700	600	8
Lincoln	5,800	200	3
N. Smithfield	3,100	100	3
Smithfield	4,300	100	2
Woonsocket	17,300	500	3
East Bay	50,700	2,800	6
Barrington	5,100	200	4
Bristol	5,800	600	10
Jamestown	1,400	**	0
Little Compton	1,400	100*	10
Middletown	5,800	300	5
Newport	11,600	1,100	9
Portsmouth	4,400	100	2
Tiverton	4,400	200	5
Warren	3,700	200	5

TABLE I-1 (Con't)

Market Area City/town	Total Dwelling Units	Substandard Dwelling Units	Percent Substandard
Western R. I.	17,900	1,700	9
Burrillville	3,300	300	9
Coventry	7,600	200	4
Exeter	1,000	200	20
Foster	900	200	22
Glocester	1,900	300	16
Scituate	2,500	300	12
W. Greenwich	700	100	14
West Bay	50,700	3,000	6
E. Greenwich	3,400	100	3
N. Kingstown	8,000	600	8
Warwick	30,300	1,600	5
W. Warwick	9,000	700	8
Southern R. I.	20,100	1,100	5
Charestown	1,500	100	7
Hopkinton	1,900	100	5
Narragansett	3,800	**	0
New Shorham	500	100	20
Richmond	1,000	200	20
S. Kingstown	5,000	500	10
Westerly	6,400	100*	2
State	325,100	52,300	16

Data from most recent Housing Assistance Plans,
except as noted.

* Estimated from the 1970 census

** Less than 50 units

United States Housing Censuses have shown that older cities have the largest blocks of substandard housing.

Second, one would expect that the rural areas of the state would have relatively low number of substandard units. This, however, is not the case. "Western Rhode Island" is largely undeveloped and yet has the second largest percentage of substandard units. Although the overall percentage for the Western area is only 9 percent, of the seven towns listed only one (Coventry) has less than 9 percent substandard units. Of the six remaining towns the range is from 9 to 22 percent, the highest in the state after Providence.

Third, the total number of substandard dwelling units in the state is 52,300 or 16 percent of the total dwelling units. This represents about one dwelling in every six, and is equal to the total number of dwelling units in the eight towns in Washington County plus the Towns of East Greenwich, West Greenwich, Coventry, West Warwick, Foster, and 1600 (64 percent) of the units in Scituate.

The 16 percent substandard units tend to fall in rather obvious clusters within a city or town border. The whole problem, however, can't be seen from the outside; of two houses standing next to each other, both visably in need of some maintenance, one, or both, or neither may be substandard. Most of the factors that contribute to making a house substandard are on the inside.

Plumbing that is missing or doesn't work, electrical wiring that is fraying and cannot meet the demands of present usage, infestation of vermin and roaches; these and more contribute to substandard housing and can't be seen by an observer from the outside. But they can be seen, and they can be felt on both the physical and psychological level by the inhabitant. The Statewide Planning report indicates that at least one state agency recognizes that these problems do exist and that there is some concern at the upper levels of government.

Housing Codes as an Answer

The recognition of the problem at the statewide level is actually spread wider than the limits of one agency. There is, in fact, a "Housing Maintenance and Occupancy Code" in the General Laws of Rhode Island.³ This code has been adopted to various degrees by most of the cities and towns of the state. The acceptance to various degrees is possible because the local governments may adopt and enforce a local housing code that is in some of its sections, stricter than the state code.

A housing code, enforced by any level of government, can be defined by the areas of housing that it encompasses. Chapter II defines and details aspects of a housing code, basically a housing code is defined as a collection of regulations that pertain to existing dwelling units and is focused on the health, safety, comfort and welfare of the occupants of these units.

Of all codes dealing with structures, housing codes, in contrast to building codes, are quite modern. The code of Hammurabi, written about 1700 B. C., mentions buildings and the punishment for builders of unsafe structures.⁴ Other ancient societies, including Polynesian, Chinese, Greek and Roman also had building codes. Housing codes in the United States did not really come into existence until the 1850 Report of the Sanitary Commission of Massachusetts.⁵ This report recommended that rules and regulations "to prevent or mitigate the sanitary evils arising from lodging-houses and cellar-dwellings."⁶ That report was the first of several studies and reports done in this country on housing conditions. Other reports are in preparation at both the state and federal levels. The results and recommendations, however, are not put into practice with the same enthusiasm as building codes are. There are two main reasons for this; the first is that building codes are promulgated at the national level and have been adopted at the state level.⁷ The second reason is that the collapse of a building and the possible loss of life is more spectacular than the gradual decay of a building and its effect on the inhabitants over many years.

Despite these drawbacks, housing codes can be and are an important factor in meeting the needs of decent housing for all citizens. As noted at the outset of this section, Rhode Island has a state housing code. While there was no study made of the general conditions of housing in the

state at the time of its passage, a study of how the code is being enforced ten years later may give an indication of the commitment of local governments to administer a local housing protection program.

Chapter I Footnotes

1. Rhode Island Statewide Planning Program. State Housing Plan, Report Number 34 (State Guide Plan Element 421). This plan is part of the comprehensive plan required under Section 701 of the Housing Act of 1954.
2. Ibid. p. 2.43. The market areas in this plan are those developed and utilized by the Housing Assistance Section of the Rhode Island Department of Community Affairs, see Department of Community Affairs publication Definition of Housing Market Areas for Rhode Island.
3. General Laws of Rhode Island 23-45-24.3.
4. "If a builder has built a house for a man, and his work is not strong and if the house he has built falls in and kills the householder, that builder shall be slain". In Landman, p. 256.
5. National Commission on Urban Problems. Three Critical Studies, (Washington, D.C.: Government Printing Office, 1968). p. 6.
6. Report of the Sanitary Commission of Massachusetts, 1850 Lemuel Shattuck, Chairman. (Cambridge: Harvard University Press, 1948) p. 164.
7. The Building Officials and Code Administrators International, Incorporated (BOCA) is the main example of this, also see Chapter III of this report.

II. HOUSING CODE BACKGROUND

In order to understand the workings of the Rhode Island Housing Maintenance and Occupancy Code it is necessary to have a basic background in the general theory of housing codes. This background, of necessity, will include such varied information as the relationship of the law and the housing codes, code enforcement and administration, the government involvement in housing codes and the economic questions and problems raised by the housing code.

Housing Code Definition

Housing codes are a statement of minimum housing standards applied through the police power of the state or municipality with the goal of protecting the health, safety and general welfare of the citizens. The code established standards for all dwellings and provides for the basic psychological and physiological needs of the occupants. Some of these basic needs are: a quiet environment, protection from accidents, clean water and privacy. A more detailed list is provided in appendix A.

The basic content of a housing code can be broken into three areas: (1) minimum facilities and installed

equipment; (2) maintenance of the dwelling unit and of the facilities and equipment; (3) use, maximum occupancy, and conditions of occupancy.¹ Table II-1 lists major items in each area and should clarify the scope and intent of housing codes.

Housing Code Administration

At present housing code enforcement can be enforced on either a systematic or a complaint basis inspection. In the first case, the entire city or district is inspected on a regularly scheduled basis. Complaint basis inspections are done only in response to a specific complaint from the tenant or a neighbor. In either case the general procedure is basically the same.

1. Dwelling units are inspected by an inspector from a municipal department charged with supervision of existing housing.
2. The inspector notes the presense of conditions that constitute violations of the code.
3. The owner-occupant or other responsible party is informed of the existence of violations and is requested or ordered to remove the violations by restoring the building to a condition that meets legal requirements.
4. Increasingly coercive pressures are used to persuade or compel the responsible party to comply if he fails to do so on his own. If necessary, court action to obtain compliance is used.²

TABLE II-1

ITEMS FOR WHICH STANDARDS ARE SET
IN A MODERN HOUSING CODE

A. Standards in relation to minimum facilities and installed equipment:

Water supply and waste disposal
Garbage and rubbish disposal
Kitchen and hand washing sinks
Bathing facilities
Toilet facilities
Means of egress
Heating equipment for the dwelling unit and for hot water
Lighting and ventilation
Electrical service

B. Standards pertaining to maintenance of the dwelling unit:

General sanitary conditions
Chimneys, flues and other potential fire hazards
Electrical wiring
Insect and rodent infestation
Internal structural repair
External structural repair
Dampness

C. Standards pertaining to use and maximum occupancy

Living space overcrowding
Sleeping space overcrowding
Doubling of families
Separation of sexes
Mixed use of living space for business purposes

Source: National Commission on Urban Problems. Housing Code Standards. Washington, D. C.: Government Printing Office, 1968, pp. 15-16

Housing Code Enforcement Technique

The steps in the administration of the code are the same whether the inspections are carried out on a regular, systematic basis or on a complaint basis. The fourth administration step can be the most important in making progress in reversing the cumulated effect of low maintenance. Generally it is felt that if the owner has not kept up the property, it will take strong incentives to force compliance with the code.

There are three techniques that have and are being used; however, they all exhibit shortcomings. The first is imposition of a fine or jail sentence. The threat of a jail sentence is usually remote and the fines that are leveled are looked upon as a cost of doing business. In most cases the fine is less than the cost of doing the repairs. Some cities use the second form of compliance, the forced vacation of a nonconforming building until it meets the code standards. This procedure has two drawbacks. The first is that the owner may find it less expensive to leave the building vacant than repair it. The second drawback is that the supply of low-rent, code standard housing is scarce in most cities and those displaced by the vacation will not usually be able to find better homes. The third enforcement technique allows the city to make the repairs when the owner fails to do so and place a lien against the property for the cost of the repairs. The lien method of repairs is valid against the owner, although the owner has to be given the option of

abandoning the property before the city is allowed to make repairs.³

The Economics of Housing Codes

Through either rehabilitation or replacement an investment is made in renewing outworn substandard housing that has fallen below the socially acceptable code standards. When this investment is not made it is because the housing has fallen below the level at which the expense of correcting the violation is outside the cost-revenue structure for that housing unit and cannot be repaired without ending the units economic life.

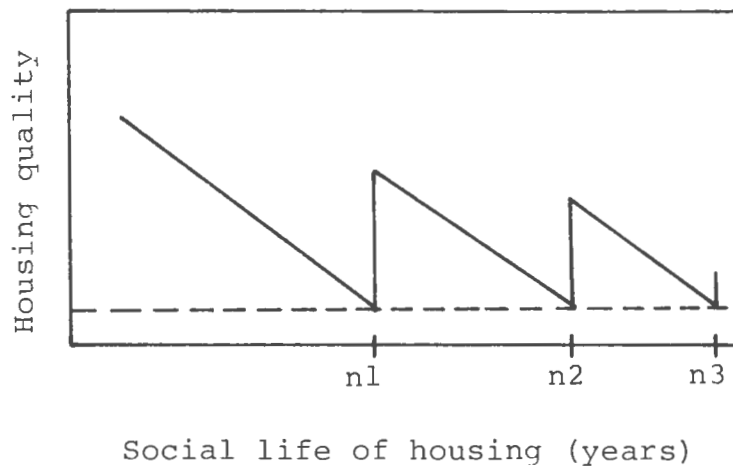
In the market place a dwelling has both a social life and an economic life. Although the terms are normally thought of as coming from different fields, here both terms are economic. The social life of a structure after rehabilitation is the time period during which the structure will be free of violations that cannot be removed within the normal maintenance cost.⁴ This definition holds no matter how many times the building is economically rehabilitated; with each cost of rehabilitation (C_1) there is a corresponding life (N_1). If after N_1 years the building is rehabilitated, the cost will rise to C_2 , consequently the life will rise to N_2 .⁵

If each cost extends the life of a building by a given time span, (see table II-2) why have so many structures become substandard? Part of the answer is that society has raised the minimum standards as house laws

have been revised throughout the years.⁶ The rest of the answer is the relationship of the private purpose of good housing to the function to othe private market.

TABLE II-2

REHABILITATION AND SOCIAL LIFE

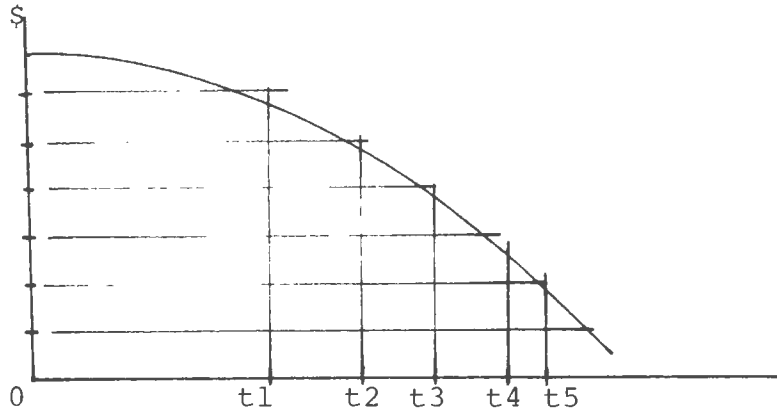


Source: Chung, Hyung C. The Economics of Residential Rehabilitation: Social life of Housing in Harlem. (New York: Prager Publishers, 1973), p.66

The economic life of a building is the measurement used in the private market to determine when a building is obsolete. It is a rule-of-thumb value to judge the purchase or rehabilitation price of a property.⁷ A buildings economic life can be displayed on a graph as a curve that starts at the value of the building and moves to the right as a slowly downsloping line but then increases the descent at an increasing rate (see table II-3). William Grigsby, and others, feel the economic life of a building is infinite. Depreciation is slow for the first ten years, declines sharply during the ten to fifty year life span, then slowly

declines while the economic value of the building remains at a low level.⁸

TABLE II-3
DEPRECIATION CURVE



Source: Chung, Hyung C. The Economics of Residential Rehabilitation: Social Life of Housing in Harlem. (New York: Prager Publishers, 1973), p. 66

Up until this point, the discussion has been centered on the individual owner operating in a vacuum. The discussion will still consider landlords as individuals, since the marketplace is sufficiently large so that a single landlord or a group of landlords do not and can not have a controlling influence of the marketplace. The individual, however, does not operate free of the marketplace.

From an economic point of view in which profit maximizing is the primary goal, the profitability of rehabilitation has to be shown by a cost-revenue comparison. From a public welfare point of view, renewal should take place when a structure falls below a minimum acceptable standard. One of the measures of acceptable standards and one of the

marketplace forces that acts on the owner is code enforcement.⁹ Code enforcement programs can be classified into four types based on the degree of enforcement and the severity of the penalty. These four types of programs are: 1) intermittent enforcement/light penalty, 2) intermittent enforcement/heavy penalty, 3) continuous enforcement/light penalty and 4) continuous enforcement/heavy penalty. These programs will affect landlords and their property in different ways when brought to fruition.

TABLE II-4
HOUSING CODE EFFECT ON DETERIORATED BUILDINGS

		Enforcement	
		Intermittent	Continuous
P e n a l t y	Light	Deterioration Moderate (-) Severe (-)	Deterioration Moderate (+) Severe (-)
	Heavy	Deterioration Moderate (-) Severe (-a)	Deterioration Moderate (+) Severe (-a)

Source: Chung, Hyung c. The Economics of Residential Rehabilitation. Social Life of Housing in Harlem. (New York: Prager Publishers, 1973), p.67-70

- (+) Action will be taken to correct the violation
- (-) No action will be taken to correct the violation
- (a) The owner may abandon the property

As shown in table II-4 structural condition has been divided into two categories to show how different combinations of enforcement and penalty affect the different

properties. The table shows that moderately deteriorated buildings are affected the most by code enforcement. Severely deteriorated buildings are generally unaffected by code enforcement and may be withdrawn from the marketplace. The loss of a building may be a penalty to the owner, but it may be a larger penalty to the tenants who are forced to move out.

While abandonment is a limit on code enforcement as Schaaf has shown,¹⁰ there are other questions that must be addressed. These include, but are not limited to: do housing codes deny the poor the opportunity to occupy cheap housing and spend their money on other things such as food; do they hinder housing efficiency by adding costs, delays, and uncertainties to the market;¹¹ does code enforcement cause rents to rise, possibly to levels that force poor families to vacate the units; does the cost of enforcement force individual landlords to sell the property to investors who may remodel the units for a higher income market.¹²

While these questions are beyond the scope of this report they must nevertheless be considered when a housing code is enforced. An opposite question of what will happen if housing codes are not enforced must also be considered. A balance needs to be struck between the negative consequences of strict code enforcement and the negative consequences of no code enforcement. This balance has to consider that society is the ultimate gainer when housing

stock is improved and will gain nothing if buildings are not improved. The short term gainers, however, are the tenants and they will lose if they are squeezed out of the housing market.

Government and Housing Codes

As the United States grew in the 1800's under the pressure of industrialization, slum conditions in the larger cities developed. Spurred on by concerned citizen organizations and private individuals, the United States Congress, in 1892, allocated \$20,000 for a study of slum conditions and insanitary housing in cities with more than 200,000 population. The Commissioner of Labor was placed in charge of the investigation and in July, 1894 delivered a 620 page report to Congress.

In 1890 there were 16 cities that were included in the over 200,000 population category, the study was based on data from only four of the cities, however, due to the limited funding. These cities were chosen as typical of larger cities and having typical slums of a larger city. The Seventh Special Report of the Commissioner of Labor: The Slums of Baltimore, Chicago, New York and Philadelphia did not attempt to either criticize the existence of the slums or make recommendations for their elimination.¹³ It did investigate all facts of the slums including an intensive study of their residents, from both an economic and social perspective, and the physical condition and make-up of the buildings and area.

Despite this report, and despite other reports comparing the cities and buildings in the United States and Europe, in which the United States came off badly, Congress did not act to change the situation. It was the Housing Act of 1936 that was the first intervention of government in the housing market. In the introduction to this act is found the first mention of codes, and here the mention is only in passing "To encourage improvement in housing standards and conditions, to provide a system of mutual mortgage insurance and for other purposes."¹⁴ The housing improvements were in Section I of the act and provided that the government would lend money to and, insure loans by lending institutions, that were used for repair and improvement of real property.

The next real step by Congress was the Housing Act of 1949 which set forth the ideal of a decent home and a suitable living environment for every American family. The act sought to reach this goal through slum clearance, urban redevelopment and public housing. In a step to save housing before it reached a slum state, the 1954 Housing Act incorporated conservation and rehabilitation of blighted, but salvageable areas. This became known as the "workable program" requirement and required that communities develop a plan of action to stop the growth of additional blight. This plan was a condition for receiving federal aid to deal with existing slums.

Housing codes were one of the seven parts of the workable program, the other parts being: comprehensive

community plan, neighborhood analysis, administrative organization, financing, housing for displaced persons and citizen participation. There was little done to hold the localities to the workable program and often the promise to have these parts in place was enough to receive a grant. In the years after the 1954 Housing Act was passed, it became clear that the act was not having the desired results, part of the reason was that not enough use was being made of the existing housing stock. A new concept, incorporated into the Housing Act of 1964 was used to try to correct this.

This concept was to finance projects that would "eliminate the first stages of slums and blight and prevent the need for subsequent clearance of rehabilitation activities" and consisting "entirely or substantially of a program of intensive code enforcement in an urban renewal area".¹⁵ While the concept was solid, few municipalities were prepared to meet the cost related to the preparation of the application. The cost arose from the planning that went into the detailed urban renewal plans required under Title I. The Housing Act of 1965¹⁶ eliminated the need for the costly planning.

In addition to this, Section 117 of Title I provided a program of concentrated code enforcement to stop and reverse the spread of blight in the "gray" areas of the city. This was known as the Federally Assisted Code Enforcement (FACE) program. It provided two-thirds the cost of administering the program and two-thirds the cost

of related public improvements. Tied in with this program, making it an even more attractive program, were sections 115 and 312 3 percent loans to property owners. The program worked so well that, in 1972 when congress refused to earmark any urban renewal money for the program, the National Association of Housing and Redevelopment Officials felt it "would seriously cripple the role of the federal government in local neighborhood improvement programs".¹⁷

Nevertheless, the FACE program was discontinued and was replaced in 1974 with Section 101 (c) (2) of the Housing and Community Development Act of 1974. This section provided for "the elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitaion assistance, and related activities;".¹⁸

The overall aim of Title I was to develop livable and active urban areas, a suitable living environment and an expanding economy. This was to be achieved through a flexible, single purpose program that would replace the categorical grant programs including urban renewal, model cities and FACE. The local communities administer the program according to local priorities among the eligible activities, one of which is code enforcement.

In a first year review of the program, HUD found that the legislative objectives receiving the greatest emphasis by the cities were elimination of conditions detrimental to health, safety, and public welfare; elimination of slums and blight; and conservation and expansion of the

existing housing stock.¹⁹ This survey was conducted with the 880 cities that were participating in the program.

The National Association of Housing and Redevelopment Officials (NAHRO) Community Development Monitoring Project found rehabilitation, public works and site improvement (both of which involved code enforcement) were the most common activities at the start of the program while code enforcement itself was third. Two years later there had been a decrease in the proportion of funds used for elimination of slums and blight, an increased amount used for the conservation of housing stock. These studies indicate the importance of code enforcement and allied activities and are consistent with HUD's review which indicated that housing was top priority.²⁰

Housing Codes and the Police Power

The police power is reserved to the states by the tenth amendment of the Constitution of the United States. Local police powers to enact and enforce the housing codes are granted by state constitutions or home-rule charter. Since the enactment of the housing code is an exercise of the police power, the code is subject to the limitations on the police power. This means that where the ordinance restricts the use of private property it must do so to protect or promote the public health, safety or welfare. In addition, the ordinance must also meet the procedural and substantive due process requirements and adhere to the equal protection demands. Other limitations of the police power that are to be met include the prohibition of

unlawful searches, unlawful delegation of authority and procedural impairment of contractual obligations. The housing code has come under attack at various times for violation of parts of the police power restrictions.

Taking

The taking issue arises when the police power exceeds regulation and attempts to deprive the owner of the property. Every owner is bound to use the property so as not to interfere with the general welfare of the community. When the legislature exceeds regulation and attempts to deprive the owner of the ability to fully use the property, the act becomes one of eminent domain. Under eminent domain the owner must be compensated for the loss of the property. Clearly defining the line between regulation and taking presents a problem. There is no clear line of demarcation, there is only an area of gray between clear regulation and clear eminent domain. When housing codes are used to force an owner to bring the property up to the minimum level of habitation the taking issue may arise.

Different courts have found for both taking and regulation in separate cases. In Queenside Hills Realty Co. v. Saxl²¹ the court refused to consider the cost of improvement in its judgement that the property be brought up to code. While part of the logic behind this decision was that the improvement was a sprinkler system and was being installed in the interest of public safety, this interest in public safety is not always a factor.

In Safer v. City of Jacksonville²² the court found that the \$19,000 needed to install lavatories, hot water and electrical outlets would be unreasonable when compared with the assessed valuation of \$40,000. The court found that this amounted to a taking based on the philosophy of Justice Holmes that police power may impose limitations on property rights, but there is a point where eminent domain is necessary. In a discussion of the case, Thomas Morris felt that upholding property rights over human rights was questionable.²³

In another finding the court in City of St. Louis v. Brune²⁴ held that the cost of \$1200 per unit to add hot and cold running water to each unit was excessive. In this case the building had little or no resale or mortgage value and the tenants, who were mostly on fixed incomes, would not be able to afford the rent increases that were sure to come if the improvements were put in. The court also reasoned "...the tenants apparently did not mind living without bathing facilities as long as the low rent rate continued".²⁵ Although this case represents the trend of courts to look at the economic ability of the landlord and tenants to afford these improvements, it raises questions and is by no means the final answer.

The Right of Entry

English Common Law decided in the case of Entick v. Carrington²⁶ that every invasion of private property is a trespass and any trespasser is liable to an action even

though there is no damage. This stand was embodied in the Bill of Rights in the fourth amendment in the statement "The right of the people to be secure... against unreasonable searches and seizures shall not be violated...". This raises a basic question of what is "unreasonable" search. In Frank v. Maryland²⁷ the United States Supreme Court, in a 5-4 decision held that a housing inspection, even though conducted without a warrant, did not violate the Constitution when the evidence obtained was not intended for use in a criminal prosecution.

Mr. Justice Frankfurter, for the majority, stated that there are two separate protections: the first is the right to bar officials unless their entry is under the proper law; the second is the right to resist entry that is designed to obtain evidence that may be used in a criminal trial. There is no right to refuse an inspection that is for the protection of the communities health.

Later decisions have, more or less, confirmed the constitutionality of inspections of private property without a warrant. In Camera v. Municipal Court of the City and County of San Francisco²⁸ the Supreme Court held that a search warrant is not necessary, provided the landlord or occupant gives consent. The court in See v. Seattle²⁹ ruled that routine-area inspections of premises are a reasonable search and do not require a search warrant.

The result of these cases and others is that the validity of local ordinances regulating the entry of

inspectors as well as ordinances for the inspection of property prior to lease or sale has been affirmed, however, penalties for the refusal to comply with warrantless searches have been ruled unconstitutional. A remaining unresolved question is who is authorized to give consent for inspections of public parts of buildings.

Equal Protection

In the case of a single housing code for an entire locality, there is no raising of the equal protection issue. When, however, housing codes create different requirements for different groups there is the risk of violating the equal protection clauses. Such codes would include a requirement for new construction to meet higher standards than existing construction. Another instance where equal protection may be raised is in zoned housing codes in which one zone has to meet a higher standard than another zone.

Generally, courts have looked favorably on higher codes for new construction and are expected to favorably view zoned codes in cases where a single low-level code would not uniformly insure a safe and healthful living condition over the entire area and where a single high level code would be unenforceable in slum areas. In broad terms, courts will be less suspect of multi-codes when the reason for the classifications is clear. For a further discussion of zoned and multi-level codes, see chapter V of this report.

Implied Warranty of Habitability

In common law there was no implied warranty of habitability. Common law considered the lease a conveyance of real property for agriculture, any building was considered incidental. There was no warranty that the building was fit for any particular use; the tenant took the land and buildings as they were and was responsible for their upkeep and repair. This rule of "buyer beware", settled in 1485, was of little concern to the tenant because of the right to inspect the building and decide from there. The simple design of the structure meant little in skill or resources were needed to keep it in repair.

Despite the emergence from an agricultural society to an industrial society, the view of the warranty of habitability has remained unchanged. Tenants continued to take dwellings as they were and the landlord was under no obligation to repair the dwelling. The courts have recently, however, started to take the stand that the common law rule of "caveat emptor" should be dropped in favor of a warranty of habitability. The first court to rule this way held that urban leases should be treated like any other contract and found support in both common law and the local housing code.

In Javins v. First National Realty Corporation³⁰ the court gave three reasons in support of its conclusion that the common law rule should be changed. First, it is based on false assumptions. Urban tenants are more interested

in a habitable dwelling than in the land and lack the skill, equipment and funds to make the complex repairs needed today. Second, there are now consumer protection laws. These laws, by which sellers are held to a warrant that their goods are fit for use by the intended parties, should be extended into the landlord-tenant area. As a buyer must rely on a seller's good faith as to the quality of the goods, so must the tenant rely on the landlord's assertions of housing quality. Third was the existing urban housing market. The court said cognizance of the housing shortage and the subsequent inequality of bargaining power has resulted in tenants having little leverage in enforcing demands for better housing. The court also reasoned the decision should be based as well on the presence of a housing code which it regarded as a legislative policy placing the landlord under a duty to repair the property.

Since that ruling was handed down, fourteen of sixteen courts hearing habitability cases have adopted the warranty rule on the same grounds and reasonings as Jarvis. One of the two courts refused to imply a warranty, feeling that however good the rule is, the resolution should be left to the legislature. This is basically the stand taken by the Alexander Court.³¹

This case is important in the warranty of habitability debate, not because of what was held, but because of why it was held and who was involved. The plaintiffs were residents of a public housing project that the defendant,

the Department of Housing and Urban Development (HUD) had taken over after the mortgagee defaulted. The project was constructed with a HUD insured mortgage which the mortgagee defaulted on after the complex was occupied. By the time HUD acquired possession of the property, after the foreclosure, the property was in a deplorable state of disrepair. HUD chose to terminate the project rather than repair it and returned security deposits to the tenants who were current in their rent. The tenants who were behind in their rent contended they withheld rent because HUD had breached the warrant of habitability. The court held that there was no implied warrant of habitability in a lease of public housing owned by HUD. The feeling of the court was that a warranty would amount to a guarantee that congressional housing goals were being met.

In stating a case for a uniform federal warrant of habitability, Slacter first raises the three points raised by the Javins court by focusing them on the particulars in Alexander.³² Added to this was the stated congressional purpose in the housing legislation of a habitable environment for HUD tenants. A final point was that the courts feeling that a warranty would be a warranty that the shortage of good housing would be remedied was an overstatement. The warranty would imply only that the government will meet minimum standards of habitability.

CHAPTER II FOOTNOTES

1. National Commission on Urban Problems. Housing Code Standards. (Washington, D.C.: Government Printing Office, 1968). p 15
2. Ibid. Legal Remedies for Housing Code Violations. (Washington, D.C.: Government Printing Office, 1968). pp 3-4
3. Ibid. pp 34-40
4. Normal maintenance cost is 10-17 percent of the gross income and is used to maintain the building system as it was designed. Chung, Hyung C. The Economic Life of Residential Rehabilitation: Social Life of Housing in Harlem. (New York: Prager Publishers, 1973) p 59
5. Ibid. p 60
6. For a study of tenement housing law revisions in New York City see: National Commission on Urban Problems, Housing Code Standards. pp 7-9
7. The present value of a property is:

$$V = \sum_{n=1}^t \frac{I_n}{(1+i)^n} + \frac{S_t}{(1+i)^t} = I \left[\frac{1-(1+i)^{-t}}{i} \right] + \frac{S_t}{(1+i)^t}$$

where V is the value of the property, I is the net annual income, S_t if the salvage value at the end of t years and i is the rate of capitalization. Assuming S_t/(1+i)^t is negligible and without discounting the future net income, the value of the property is approximately equal to the annual income multiplied by the economic life of the building; that is: V=It. Chung. Economic Life. p 61

8. Ibid. p 62
9. Two assumptions are made here: first there is no housing code in existence, second there is no market demand for improved housing. If this second demand existed, private renewal would take place without a code improvement program. Ibid. pp 63-65
10. This is a limit since society as a whole will loose if large numbers of dwelling units are withdrawn from the market place. Ibid. pp 70-71

11. Aaron, Henry J. Shelters and Subsidies: Who Benefits From Federal Policies. (Washington, D.C.: The Brookings Institute, 1972) p 16
12. Meyerson, Martin, Terrett, Barbara and Wheaton, William L. C. Housing, People and Cities. (New York: McGraw-Hill Book Company, Inc., 1962) pp 190-193
13. Commission of Labor. Seventh Annual Report of the Commission of Labor: The Slums of Baltimore, Chicago, New York and Philadelphia. (Washington, D.C.: Government Printing Office, 1894)
14. National Housing Act 73rd Congress, Session II Chapter 847
15. Housing Act of 1964 78 Stat. 785 (1964)
16. 79 Stat. 477 (1965)
17. Whitaker, Constance and Silverman, Edward C. "The 'Pluses' and 'Minuses' of the 1972 Congressional Session for Housing and Community Development". Journal of Housing, Vol 29, No. 11, December, 1972 pp 551-553
18. 88 Stat. 634 (1974)
19. U. S. Department of Housing and Urban Development. Community Development Block Grant Program First Annual report. (Washington, D.C.: Government Printing Office, December, 1975)
20. "NAHRO Reports on its Monitoring of the First Year of the Community Development Program" Journal of Housing Vol 32, No. 9, October, 1975, pp 445-447 and "Housing and Community Development in October, 1977", Journal of Housing Vol. 34, No. 11, December, 1977, pp 564-565
21. 66 S.Ct. 850 (1946)
22. 237 So. 2nd 8 (1st. D.C.A. Fla. 1970)
23. Morris, Thomas E. "Housing Codes: Court Determination of Reasonableness". 23 Florida Law Review 195 (1975)
24. 515 S. W. 2nd 471 (Mo. 1874)
25. Ibid. p 476
26. 19 How. St. Tr. 1029 (1765)
27. 359 U. S. 367 (1959)

28. 387 U. S. 523, 87 S. Ct. 1727, 18 L. Ed. 2d 930 (1966)
29. 387 U. S. 541 (1967)
30. 428 F. 2d 1071 (D. C, Cir), Cert. Denied, 400 U. S.
31. Slacter, David A. "Implied Warranty of Hability in Federal Housing Projects". 14 Boston College Law Review 343 (1974)
32. Ibid. p 473

III HOUSING CODES IN RHODE ISLAND

Rhode Islands' initial response to the unsafe and unsanitary dwelling conditions that existed within the state was in 1935. The state legislature passed enabling legislation to allow the cities to establish a local housing authority when petitioned to do so by the local residents.¹ These authorities were to engage in slum clearance and/or projects to provide dwelling accommodations for low income persons.

It was noted in the legislation that unsafe and unsanitary dwellings did exist within the state and these conditions arose from overcrowding, obsolete buildings, lack of light, air, space and proper urban design. It was also noted that the poor resided in these dwellings and that it was for the public interest that the legislation was enacted.

As with all laws, the Housing Authority legislation underwent minor changes in the following years. Two major changes occurred, however, after World War II. The first enabled Providence to issue \$2,500,000 in bonds to aid the development of any housing project for returning veterans.² This was brought about by the shortage of housing for veterans and their families. This act was important in that

it expanded the client population now eligible for public housing. In this legislation there was no mention of housing conditions, only of the shortage of housing.

The second major change occurred in 1950 when the Housing Authorities Law was amended so as to allow towns to establish housing authorities.⁴ The Housing Authority Acts, while still in existence, do little to slow or stop the spread of unsafe and unsanitary housing. These acts allow only for the removal of the residents from these structures and the demolition of the uninhabitable structure.

In response to the actions of the federal government, the state legislature began authorizing cities to enact minimum standards for housing. Individual cities would petition the legislature for power to enact minimum housing standards in order to qualify for federal funding under the Housing Act of 1954.⁵ Between 1956 and 1962 five cities petitioned for and received authority to establish minimum housing standards.⁶ In 1962 the legislature enacted an ordinance authorizing all the cities and towns to enact minimum housing standards.⁷ The bill defined what the ordinances could include, allowed for the formation of an enforcement agency and a housing board of review, court review and penalties for the violation of the local ordinance.

Between 1962 and 1965 the only major piece of housing code legislation passed was an addition to the 1962 legislation and allowed tenants to pay their rent to an

escrow fund.⁸ This was allowed only if an enforcing officer found a violation that was a serious hazard or a peril to health. In addition, the escrow account had to be established by the officer. Funds from the account were used to pay for the repair of the violation. It was also stated that the landlord could make no reprisals against the tenant for participating in this program.

The Rhode Island Housing Maintenance and Occupancy Code⁹ was passed in 1970. The statute detailed where the code was to be applied, how it was to be applied, what the standards were and what methods of enforcement were open at the local level and in the courts. A fuller description of the state code will be found in the next section and a copy of the code can be found in appendix B.

Far from remaining in a fixed state, the code has undergone several changes that have widened its scope and strengthened its enforcement.¹⁰ The changes that are seen in the code represent only a part of the changes that were put before the legislature. As with all attempts to change legislation there are a certain number of bills that do not pass. The housing code has also had an effect on other state laws. These laws have been modified to either allow for the existence of the housing code or to use the housing code as a guide within the law.

The State Housing Code

The Rhode Island Housing Maintenance and Occupancy Code is the housing code for the State of Rhode Island.¹¹

The code is divided into 22 sections covering different topics. These sections can be grouped by type into four categories which will be used for a discussion of the housing code.

Category I consists of sections 1 through 5, which provides background information of the code. Contained in this category is the legislative finding of the need for the code (basically the same finding that prefaced the local housing code); the purpose (protecting the general health, safety and welfare); the application of the code (to dwellings used for human habitation) and definitions of various terms used in the interpretation and enforcement of the code.

Category II, sections 6 through 13, contains the enforceable laws of the code. Listed here are the minimum standards for basic facilities, light and ventilation, heating standards, lead paint standards, minimum space requirements and use and location requirements. Also included are requirements relating to the standards for rooming houses and the requirements for safe and sanitary nonresidential premises and structures.

Category III consists of sections 14 through 17. This category details inspection provisions of the code. It explains the powers of the enforcing officer. These provisions include the adoption of a plan of inspection for a systematic inspection process; the powers and duties of the enforcing officer, and include limits of and on the inspecting officer. also in this area are the rules

and regulations for the enforcement agency and the housing board of review.

The final part, category IV, contains sections 18 through 22. This area is concerned with the post-inspection process. This is the area that is beyond the control of the localities and is the jurisdiction of the courts. One section details the penalties and other methods that may be used to achieve corrective action. Also listed are the administrative processes that must be followed, particularly through the housing board of review, before the courts are to be involved in the process.

Implementation

The implementation of the Housing Code at any level of government in Rhode Island is a difficult process. The main problem stems from the language of the legislation and this problem is the result of two other problems. The first problem is the lack of a central and national code that is widely accepted. The building code is an example of such a national code. This problem is brought about by the lack of a central and widespread organization with the ability to adopt and enforce a standard housing code.

There is a national organization for the support of a standard building code. The Building Officials and Code Administrators International, Incorporated (BOCA) has, and is enforcing a code for building standards. This BOCA code is the standard that Rhode Island has accepted as the building code. The Rhode Island provisions are written

such that the latest revisions to the BOCA code are the state standard.¹² Because the code has national standing it is easier to achieve compliance at both state and local levels.

The national backing of the code facilitated the establishment of a state agency to oversee building code administration at the state and local levels.¹³ This committee was established at the state level by the legislation. Its composition, duties and powers were enumerated in the same legislation. Also included in the legislation were references to local officials. These sections included: qualifications, powers and duties and certification. Requirements for building permits and certificates of occupancy were also detailed.¹⁴

Contrast the description in the last paragraph with the earlier of the housing code. There is no strong national organization to support a widely accepted housing code: the state housing code was modeled after the existing city codes. Rhode Island has no provision for the establishment of a state agency in the legislation. Proposals have been made to have the State Building Commission assume these duties; the Commission has said it would, contingent upon an expanded budget to allow for extra staff. To this date the money has not been forthcoming.¹⁵ There are no provisions for qualifications or certification of local inspectors.

In spite of these drawbacks the State Housing Code has generally been accepted by both state agencies and

local governments. The remaining parts of this chapter and the next chapter will deal with the use and enforcement of the code at state and local levels. The state agencies to be covered were selected because they house, or are responsible for housing, clients in non-institutional settings.

State Agencies and the State Housing Code

The way in which state agencies enforce the State Housing Code in connection with their respective clients is an indication of the state's response to its own laws. The Housing Code should serve to protect all the citizens of the state. Included in the group of citizens are the wards of the state. These people, for one reason or another, are under the care and protection of the state. Often these people are thought of as non-citizens because of the government protection afforded them. Nevertheless they are still subject to the same protections as "regular citizens".

The protection of the State Housing Law affords the opportunity to all to live in housing that meets certain minimum requirements. Several agencies provide housing for their clients in community housing. This group housing is integrated into cities and towns. The enforcement of the housing code in the running of this group housing will be examined in the following sections.

Department of Social and Rehabilitative Services

When the Department of Social and Rehabilitave Services established the Housing Services Unit in 1972, one of the

Unit's main functions was to reduce the number of clients in substandard housing. To meet this goal the Unit established a two pronged attack consisting of pre-rental inspections and a complaint basis follow-up inspection.

The pre-rental inspection is initiated when a special service client needs to move into a new dwelling unit. The inspection can be called for by either the client or the social worker, in most cases the latter. Inspections take about one half hour and are scheduled in advance. While the landlord need not be present for the inspection, the contact is necessary to gain entrance to the unit.

A standard form is used during the inspections and serves as a record of the inspection, see appendix C. In the early years, minor violations would be noted, however, they would not necessarily have to be repaired. Presently all violations must be repaired before the unit will pass inspection and the client is allowed to move in. If there are major violations that are being repaired at the time of inspection and can be completed before the scheduled move in date, the unit will be reinspected at the time of completion.

The dwelling unit's failure to pass inspection does not mean the client cannot move into the unit. What it does mean, however, is that the client is not eligible for moving expense money that is allowed by SRS. This in turn means the client must pay the entire moving bill.

As most clients cannot afford this extra out-of-pocket expense it does serve as a deterrent to moving.

The inspection procedure after a client has moved into a unit is set in motion by the client, either through the case worker or by direct contact with the Housing Unit. In either case the inspector will notify the local code enforcement officer (if one exists) and request an emergency inspection by the code inspection office. The inspector also will visit the unit to verify the violation, talk with the client to inform them of their rights and duties and talk with the landlord in an attempt to get the situation resolved. If the situation is severe enough, the client will be advised to move out and other shelter, emergency or permanent, will be found for the client.

Special cases arise at different times of the year; winter problems are the most common, and of these lack of heat or threatened fuel cut-off are the most severe. Clients will be handled in one of two ways, depending on the particular case. The first path is the SRS hear plan: if the client has paid their share of the fuel bill (as determined in the heat plan) SRS will pay the remaining part of the bill thus avoiding the fuel cut-off. If the client has not paid their share, then help is found through one of several other agencies including the local CAP office, churches or the Governor's Information Line.

Department of Community Affairs

The Department of Community Affairs has one section

that deals with housing codes as part of its services. The Housing Assistance section has several functions in this field, one of which is to supply a staff person to serve as a liaison with the Rhode Island Municipal Code Enforcement Association, an association of local code enforcement officials. In this capacity the liaison has no vote at the meetings but can serve as a source of information for the group and at the same time keep the state informed as to problems at the local level.

Community Affairs has for the past several years had a part in sponsoring Housing Code legislation. The original 1970 legislation was written, based on the Providence housing code, by a Housing Section employee. All the amendments to the housing code as well as several bills that did not pass the legislature were sponsored in part by the Housing Section. While the Housing section sponsors legislation, this is not to imply that the legislation is written in a vacuum. The local code officials organization is an important source of information as it is a clearing house for local problems.

Another function of the Housing Section is the sponsoring and implementation of training courses for the code officials and others who work with the codes. The others include state agencies, private community organizations and city officials working in other fields. The past training seminars have been well received by all groups and have helped to ease code enforcement problems. A seminar planned for the fall of 1980 will propose amendments for the State Housing Code.

The office is also active in carrying out inspections for federal housing programs including the Section 8 housing program. This program requires a special inspection format and guidelines, so in these cases the state code is not followed. A copy of the Housing Quality Standards used for Section 8 inspections is included in Appendix C.

Finally, and of prime importance to the local governments the Housing Section is a reference source for housing code information. This information is available to all localities and can range from information on establishing a local housing code to working with the problems of the existing code.

Department of Children and Family Service

In the first quarter of 1980 the divisions of several state agencies that had children as their clients were merged to form the Department of Children and Family Service. This department is authorized to place children in group homes in communities. These group homes are run by non-profit private agencies and the individual homes as well as the agency must be licensed yearly by the state.

As part of the licensing process the home must be inspected yearly by both the Fire and Health Departments. The health inspection is conducted by the State Health Department which, while not checking for minimum housing standards does check for health code violations. In addition to yearly inspections, the homes are monitored by the administrative staff of the department. The staff will make random inspections, primarily for the programmatic aspects of the house, however, any other violations will be noted

and if necessary a re-inspection will be called for. Failure to correct the violation can result in loss of licesse.

While all homes must go through the licensing process, there are two catagories of homes and they receive different inspections. The homes are divided into those which are considered large (12 or more residents) as well as small units (less than 12 residents). The health inspection is mandatarly for both size homes. The fire inspection, however, is mandatarly only for the larger homes. Nevertheless, all group homes are governed by a provision in the General Laws that regulates such items as means of egress, stair-¹⁴ways, fire alarms and housekeeping.

Department of Mental Health, Retardation and Hospitals

The Department of Mental Health, Retardation and Hospitals is responsible for the care of the mentally ill and emotionally disturbed citizens of the state. This care can vary from institutionalization in state facilities to group homes in locations across the state. The group home care can be provided by either the state or private non-profit organizations that are licensed by the state. It is in dealing with group homes that the Department's Community Resource Division is able to work with the state housing code.

The Community Resource Division contracts for community group homes. This contract can be fulfilled with either new or existing construction. It is the existing construction that falls under the housing code.

The existing housing can be utilized in one of two ways: rented by the state or rented by state licensed private agencies. In either case the unit has to pass a pre-rental inspection that encompasses both the fire and minimum housing code. In addition to this inspection, there are yearly inspections of both types on the rental property.

The private agencies have their licenses reviewed once a year and this inspection is part of the renewal process. The private agencies are also subject to surprise inspections during the year. The inspections are primarily to make sure clients are receiving the proper care, however, all aspects of the home including minimum housing are noted.

If violations of any sort are found, the agency has a limited time period to correct the problem. If the violation is not corrected, the agency may lose its license and the house is closed. To date, no agency has lost its license; the problem of what to do with the residents has not arisen in this area. There was, however, a fire in one of the group homes and placement of the residents became a problem. Market forces are not applicable in cases such as this, the residents are wards of the state, not private citizens and must be protected. There is an additional problem in that the residents of group homes are there because they are able to live under such conditions and to return them to the main state

facility would be a step backward for the individual. To house the residents in other group homes would result in overcrowding, a violation of the housing code.

This last option is the track chosen by the state. The group homes have one or two beds that are used for clients who, under special circumstances, need shelter for up to a week. While the housing of displaced residents would eliminate or reduce the spare bed situation, it is a trade-off that must be made. It is felt that the temporary overcrowding is a condition that is acceptable until permanent group housing can be found.

Chapter Conclusion

The survey of these departments shows that there is an interest in maintaining certain standards within state connected housing. The standards that appear to be the most commonly used are related to fire and health codes and group home standards. With the exception of the Housing Services Unit there is little use made of the housing code.

The use that is made of the housing code is not formalized into the licensing process. It is part of the inspections that are used to ensure that housing is kept operating at the proper level. This is an informal check on housing conditions and has no effect unless the staff inspector is aware of what to look for and calls for an inspection.

By adding a Housing Code inspection to the regular licensing process, it would be possible to prevent any possible housing problems. In addition to this, the agency personnel that periodically check on the operation of the housing should have to take a course to familiarize them with the operation of the housing code.

Chapter III Footnotes

1. Chapter 2255 of the 1935 Public Laws of Rhode Island.
2. Chapter 1750 of the 1946 Public Laws of Rhode Island.
3. Chapter 2763 of the 1951 Public Laws of Rhode Island.
4. Chapter 2619 of the 1950 Public Laws of Rhode Island.
5. See 'The Federal Government and Housing' Chapter II of this text, pp. 18-22.
6. In addition to Providence (1956) the cities were: Pawtucket (1956), East Providence (1961), Woonsocket (1961) and Newport (1962).
7. Chapter 87 of the Public Laws of Rhode Island. This act added section 45-24.2 to chapter 23 of the General Laws of Rhode Island.
8. G. L. R. I. 45-24.3-19.
9. Chapter 325 of the 1970 Public Laws of Rhode Island.
10. See for example Chapter 118 of the 1972 Public Laws of Rhode Island, sections 5 and 6.
11. G. L. R. I. 45-24.3.
12. G. L. R. I. 23-27.2.
13. G. L. R. I. 23-27.2-2.
14. G. L. R. I. 23-28.30.
15. Conversation with John Desautel
16. Ibid.

IV. LOCAL GOVERNMENTS AND HOUSING CODES

Housing codes in Rhode Island were enacted in response to the Housing Act of 1954 in which a "workable program", which included a housing code enforcement program was required. The larger cities in the state were the only municipalities that took part in the 1954 housing program, thus they were the only localities that had and enforced a housing code.

These cities had to petition the state legislature for the authority to enact and enforce a housing code. The enabling legislature even granted for the individual cities and contained not only the necessary enabling legislation, but guides to a housing code as well. This is not to imply that the state legislature wrote the housing code; the legislature provided certain definitions and items that could or should be included in the code.

The legislative body of the city was empowered to pass, ordain, establish and amend the housing code. It could also establish an enforcement agency to administer the code, and a board of review. It was the function of the board of review to reexamine any violations that were contested by a landlord or tenant. The board had the power to agree with or modify the decisions of an inspector.

The state legislature also established a court review process in the State Supreme Court. Any person affected by a decision of the board of review could petition the court for a writ of certiorari, directing the board to review the findings. The supreme and superior courts could also issue extraordinary writs to correct a violation or order repair or demolition of a dwelling at the expense of the owner.

Present Status of Local Governements and Housing Codes

The process of interpreting and enforcing the housing code in any locality falls upon the local housing inspection officer. While other factors are involved, the financing of a large staff and an active code enforcement not the least of them, the ability and knowledge of the inspector and the code the municipality enforces are important.

To gather information on the codes the local governments are enforcing and the way in which the codes are being enforced, a telephone survey was made of the 39 localities in the state. Three factors went into the decision to use a telephone survey. The first was the brevity of the survey format, in practice the interview lasted about ten minutes. The second factor was the geographical area to be covered, most of the towns are widely dispersed and more time would be spent in transit than could be justified. The third factor is centered on the shortcomings of a mail survey. Mail surveys are not

apt to inspire additional information that may be released during a telephone or personal interview. In addition to this, the Department of Community Affairs recently conducted a mail survey of housing officials to which there was a 20.5 percent return rate. It was felt that this return rate was unacceptable to meet the needs of the survey.

General Background

All 39 cities and towns in the state were surveyed for this study; there was a 100 percent response rate. The housing inspectors were contacted during working hours by telephone and the survey lasted an average of ten minutes. The survey was designed to document the use and type of housing code in each locality, the location of the housing inspection office and the size and experience of the inspection staff. A sample of the questionnaire is shown in appendix B. The specific results will be discussed in depth, but the general results are as follows. The cities enforce a local housing code that is reinforced with the state housing code; the enforcement is active and the inspectors, averaging four per city, work in the housing inspection office. Towns enforce the state housing code; have a passive inspection system and the inspectors, averaging one per town, work in the building inspector's office. Of the 39 cities and towns, 9 enforce both the state and a local housing code, 3 enforce a local housing code only, 23 enforce the state housing code only and 4

enforce no housing code.¹

Analysis of the Data

To completely analyze the survey data, the localities were divided into several groups of similar population. As with any classification of data it is important to devise categories that will allow a maximum difference between groups while allowing a minimum difference within the groups. To achieve these criteria, it was decided to use five categories based on natural breaks in population sizes for the municipalities. Table IV-1 lists the cities and/or towns within each grouping. For convenience, the localities within each group are listed in alphabetical order.

The raw data from the survey of each municipality is displayed in Table IV-2. The cities and towns are listed in alphabetical order, the cities are underlined. The remaining tables (IV-3 and IV-5 through IV-7) display the data broken down by the groups shown in Table IV-1. The designation for each group will be the population size followed by the number of municipalities enforcing a housing code in that group. The first group designation is: 0-4999 (7). The number in parentheses is different in groups 1, 2 and 4 because localities within those groups do not enforce a housing code (see Table IV-1 for specific localities).

Housing Code

As previously mentioned, several localities have and

 TABLE IV-1

 CITY AND TOWN GROUPING FOR DATA ANALYSIS

Population: 0-4999 (8)

Charlestown, Exeter*, Foster, Jamestown, Little Compton,
New Shorham, Richmond, West Greenwich

Population: 5000-11,999 (8)

Burrillville, East Greenwich, Glocester, Hopkinton*,
Narragansett, North Smithfield*, Scituate, Warren

Population: 12,000-19,999 (9)

Barrington, Bristol, Central Falls, Lincoln,
Portsmouth, Smithfield, South Kingstown, Tiverton,
Westerly

Population: 20,000-29,999 (7)

Coventry, Cumberland*, Johnston, Middletown,
North Kingstown, North Providence, West Warcick

Population: 30,000+ (7)

Cranston, East Providence, Newport, Pawtucket,
Providence, Warwick, Woonsocket

*These localities do not enforce a housing code and have
been eliminated from the remaining tables.

enforce their own local housing code. The survey showed that the extent to which cities and towns enforce the local and state codes differs. The code that is the more stringent in a particular field is the one that is to be enforced. Generally the local codes are not as complete as the state code since the local code is focused on matters of local importance. TableIV-4 displays the localities using both state and local housing codes. This dual enforcement is allowed under the state code as long as the

TABLE IV-2

CITY AND TOWN ENFORCEMENT OF HOUSING CODES

	Barrington	Bristol	Burrillville	Central Falls	Charletown	Coventry	Cranston	E. Greenwich	E. Providence
Housing Code									
State	X	X	50%	75%	X	X	X	X	90%
Local	-	-	50%	25%	-	-	-	-	10%
Enforcement									
Active	-	-	-	-	-	-	X	-	-
Passive	X	X	X	X	X	X	-	X	X
Other Inspections									
Pre-rental	-	*3	*2	*3	-	*2	-	X	*3
Pre-sale	-	-	*2	*2	-	-	-	-	-
Office Location									
Building Office	X	X	X	X	-	X	-	X	-
Housing Office	-	-	-	-	X	-	X	-	-
Other	-	-	-	-	-	-	-	-	*10
Staff Size									
Full time	1	1	1*8	2	1	1*8	5	1*8	1
Part Time	-	-	-	-	1	-	-	-	-
Experience (years)									
Housing Code	3	4	9	8	5	6	3	5	6
Other	9*4	9*4	-	-	-	-	5*4	-	-

TABLE IV-2 (Con't)

	Foster	Glocester	Jamestown	Johnston	Lincoln	Little Compton	Middletown	Narragansett	Newport
Housing Code									
State	X	X	90%	-	X	X	X	55%	10%
Local	-	-	10%	X	-	-	-	45%	90%
Enforcement									
Active	-	-	-	-	X	-	-	X	80%
Passive	X	X	X	X	-	X	X	-	20%
Other Inspections									
Pre-rental	-	-	*2	*2	*1	-	*2	*2	-
Pre-sale	-	-	-	-	-	-	-	*2	-
Office Location									
Building Office	X	X	X	X	X	X	X	-	-
Housing Office	-	-	-	-	-	-	-	X	X
Other	-	-	-	-	-	-	-	-	-
Staff Size									
Full time	-	-	-	2	-	-	2*8	1	2
Part-time	1	1	1	-	1	1*8	-	1	-
Experience (years)									
Housing Code	2	5	5	9	1	-	6	1	5
Other	*4	-	-	-	*4,5	*4	-	*4,5	-

TABLE IV-2 (Con't)

	New Shorham	North Kingstown	N. Providence	Pawtucket	Portsmouth	Providence	Richmond	Scituate	Smithfield
Housing Code									
State	X	*7	X	-	75%	5%	X	X	-
Local	-	-	-	X	25%	95%	-	-	X
Enforcement									
Active	-	-	X	85%	-	20%	-	-	-
Passive	X	X	-	15%	X	80%	X	X	X
Other Inspections									
Pre-rental	*12	-	*3	*2	-	-	-	*1	-
Pre-sale	-	-	*2	-	-	-	-	-	-
Office Location									
Building Office	-	X	X	-	X	-	X	X	X
Housing Office	-	-	-	X	-	-	-	-	-
Other	*11	-	-	-	-	*9	-	-	-
Staff Size									
Full time	1*8	1*8	1	3	1*8	15	-	-	1*8
Part-time	-	-	1	-	-	-	1*8	1*8	-
Experience (years)									
Housing Code	8	1	8	5	2	8	4	1	1
Other	-	8*6	-	-	9*4	-	9*6	9*8	6*6

TABLE IV-2 (Con't)

	S. Kingstown	Tiverton	Warren	Warwick	Westerly	W. Greenwich	W. Warwick	Woonsocket
Housing Code								
State	-	X	X	90%	X	x	-	95%
Local	X	-	-	10%	-	-	X	5%
Enforcement								
Active	-	-	-	X	-	-	50%	X
Passive	X	X	X	-	X	X	50%	-
Other Inspections								
Pre-rental	*2	*2	*1	X	-	-	*3	*3
Pre-sale	*2	-	-	-	-	-	-	-
Office Location								
Building Office	X	X	X	-	-	X	-	-
Housing Office	-	-	-	X	X	-	X	-
Other	-	-	-	-	-	-	-	*9
Staff Size								
Full time	2*8	1	1*8	3	1	1*8	1	2
Part-time	-	-	-	-	-	-	-	-
Experience (years)								
Housing Code	3	2	9	8	1	5	10	8
Other	9*4	9*4	-	-	9*4	-	-	-

TABLE IV-2Footnotes

- X Indicates participation by the locality. In the of dual enforcement the percentage or enforcement or use of each part is indicated.
- * An asterisk indicates special conditions for that item. An explanation for that case can be found below through reference to the number to the right of the asterisk.
1. Pre-rental inspection is made if welfare requests.
 2. Pre-rental or pre-sale inspection made if requested by perspective tenant or buyer.
 3. Pre-rental or pre-sale inspection made if requested by either welfare or perspective tenant or buyer.
 4. Other experience in building or construction.
 5. Other experience in real estate.
 6. Other Experience as Building Inspector.
 7. North Kingstown adopted the Housing Code in 1980.
 8. In addition to other duties as building inspector.
 9. Department of Planning and Urban development.
 10. Community Development Office
 11. Hired by town, not connected with any office.
 12. Pre-rental inspection of full summer season rentals and boarding houses only.

TABLE IV-3

HOUSING CODE ENFORCED

Grouping and Size	State	Local	Both	Total
0- 4,999 (7)	6	-	1	7
5,000-11,999 (6)	4	-	2	6
12,000-19,999 (9)	4	2	2	9
20,000-29,999 (6)	4	2	-	6
OVER 30,000 (7)	<u>1</u>	<u>1</u>	<u>5</u>	<u>7</u>
Totals (35)	20	5	10	35

code with the higher provision is enforced. Several of the local codes were in existence at the time of the adoption of the state code, however, several municipalities have adopted local codes based on the state code but with higher provisions. Table IV-4 lists the localities that

TABLE IV-4

MUNICIPALITIES ENFORCING TWO HOUSING CODES
AND PERCENT OF ENFORCEMENT OF EACH

Municipality	State	Local
CENTRAL FALLS	75%	25%
EAST PROVIDENCE	95%	5%
Jamestown	90%	10%
Narragansett	55%	45%
NEWPORT	10%	90%
Portsmouth	75%	25%
PROVIDENCE	5%	95%
WARWICK	90%	10%
WOONSOCKET	95%	5%

Cities are shown in capital letters

enforce both codes and the degree to which each is enforced.

In addition to determining which code is enforced, the cities and towns may either actively or passively enforce the code. In an active enforcement each building is checked for violations once every few years on a regular schedule. This is also known as systematic code enforcement. Passive code enforcement is a response to complaints or requests that are called in to the housing inspector. The only time a building is inspected is when a complaint is lodged against it or the inspector is asked to inspect it. Table IV-5 lists the municipalities by groups as to type of enforcement.

TABLE IV-5

TYPE OF ENFORCEMENT

Grouping and Size	Passive	Active	Both
0- 4,999 (7)	7	-	-
5,000-11,999 (6)	5	1	-
12,000-19,999 (9)	7	2	-
20,000-29,999 (6)	4	1	1
over 30,000 (7)	1	3	3
Totals (35)	<u>24</u>	<u>7</u>	<u>4</u>

While active and passive enforcement are typologies of enforcement there is no reason that they should not work together. In fact they do, usually the response to complaints is to handle them as they come in and fit them into the regular inspection schedule. Three cities, however allot a certain amount of inspection time to complaints and requests.² These are large cities and have

learned through time that they may expect a large number of complaints. It is worthwhile for them to set staff time aside for complaint and request inspections. Many localities have no choice, given the financial constraints of the city, to use the passive system. These constraints limit the staff size, in several cases to one part time inspector.

Staff

Table IV-6 displays staff size for the groups in both weighted and unweighted modes. The weighting factors are as follows: a full time or part time housing inspector with no other duties was weighted 1.00, a full time or part time inspector with other duties was weighted 0.50. The weight of 0.50 was chosen because most housing inspectors with other duties are the building inspector. While it is difficult to establish how much time is spent at either position, the 0.50 weight was chosen as an average of the two positions.

The table generally shows that the larger a city or town is, the more likely it is to have a full time housing inspection staff. The large jump in inspectors in the fifth group is due to the City of Providence inspection staff. Its staff of fifteen skews the data. However, even when the data from Providence is deleted the group still has an average of 2.67.

Office Location

The location of the housing inspection office/officer

TABLE IV-6

AVERAGE STAFF SIZES

1	2	3	4	5	6
		Staff	Staff/Towns	Weighted Staff	Weighted Staff/Towns
0- 4,999	(7)				
Full time	(4)	4	1.00	2.5	.625
Part-time	(4)	4	1.00	4.0	1.00
5,000-11,999	(7)				
Full time	(4)	4	1.00	2.5	.625
Part-time	(3)	3	1.00	2.0	.67
12,000-19,999	(9)				
Full time	(8)	9	1.13	7.5	.94
Part-time	(1)	1	1.00	1.0	1.00
20,000-29,999	(7)				
Full time	(6)	8	1.33	6.0	1.00
Part-time	(1)	1	1.00	1.0	1.00
over 30,000	(7)				
Full time	(7)	31	4.43	31	4.43
Part-time	(0)	-	-	-	-

Column 1: location groupings and employment categories

Column 2: number of localities in grouping and the number of localities in each category. The number of localities in the category may exceed the number of grouped localities if one or more localities have both full and part-time employees. These localities would be counted once as having full time inspectors and once as having part time inspectors.

can give some information as to the localities position with respect to the housing code. While this location may be a factor of financial constraint, the location should not be overlooked. Table IV-7 displays the location of the offices across the state. A housing inspection office seldom exists in groups 1-4. This may be seen as due to financial constraints on the localities as well as their wanting to have both done by the same staff. In three of the larger cities the inspection office can be found in the community development or planning and development office. In these offices the housing inspection may be more easily coordinated with other community development work.

TABLE IV-7

Housing Inspection Office Location

		Building Office	Housing Office	Other Office
0- 4,999	(7)	5	1	1
5,000-11,999	(6)	5	1	-
12,000-19,999	(9)	7	2	-
20,000-29,999	(6)	5	1	-
over 30,000	(7)	-	4	3
Total	(35)	22	9	4

Other Inspections

The pre-rental and pre-sale inspections are not a part of the state housing code. They are a legislatited part of the housing inspection process for one city and one town, however. The general concept of a pre-rental/sale inspection is found in the building permit process across the state. In the building process an occupancy permit is applied for

at the time the building permit is applied for. It is applied for then as a time saving method in that the paperwork for both can be processed at the same time. The occupancy permit, when issued, simply says that the building complies with the all building and zoning regulations and is fit to be inhabited.

Because the permit is part of the building process, once the permit is issued for a building another will not be issued or a re-check made unless another building permit is sought. An occupancy permit or pre-rental/sale inspection at the time a dwelling unit is rented or sold would be a re-checking method for habitability. Since the process is not widely used in the state, few people know of its existence. In several cities and towns, however, the inspection officer will make the inspection if asked to do so. Table IV-8 lists the communities and the conditions under which they will inspect. Some communities refuse to do the inspections feeling that there is not enough time and that one person could use up a considerable amount of staff time if they had not made a final choice on a unit and wanted several units inspected.

Even where the inspection is required by law, there are problems with enforcement. Unless the occupancy permit is required at the closing the housing office seldom finds that a unit has been sold until it is too late for an inspection. In the case of rental property, unless the landlord notifies the inspector that a unit is vacant there is no

practical way to check on possible vacancies. As one inspector stated, it is up to the landlord to live within the law.

TABLE IV-8

PRE-RENTAL AND PRE-SALE INSPECTIONS

Central Falls	R-wa	S-a	Johnston	R-a	-
Cranston	-	-	Lincoln	R-w	-
E. Providence	R-a	-	Little Compton	-	-
Newport	-	-	Middletown	R-a	-
Pawtucket	R-a	-	Narragansett	R-a	S-a
Providence	-	-	New Shorham	R-b	-
Warwick	R-l	-	N. Kingstown	-	-
Woonsocket	R-wa	-	N. Providence	R-wa	S-a
			Portsmouth	-	-
Barrington	-	-	Richmond	-	-
Bristol	R-wa	-	Scituate	R-a	-
Burrillville	R-a	-	Smithfield	-	-
Charlestown	-	-	S. Kingstown	R-a	S-a
Coventry	R-a	-	Tiverton	R-a	-
E. Greenwich	R-l	-	Warren	R-w	-
Foster	-	-	Westerly	-	-
Glocester	-	-	W. Greenwich	-	-
Jamestown	R-a	-	W. Warwick	R-wa	-

R: Pre-rental inspection

S: Pre-sale inspection

a: will inspect if asked by present or prospective tenant
 b: pre-rental inspection of full summer season rentals and boarding houses only

l: required by the local housing code

w: will inspect for welfare clients if social worker requests inspection

Chapter IV Footnotes

1. Cumberland, Exeter, Hopkinton and North Smithfield.
2. These are the cities of Newport, Providence and Pawtucket.

V. IMPROVEMENTS AND CONCLUSIONS

Since the state housing code was adopted in 1970, it has undergone several changes in both enforcement and administration. These changes are signs that the code can change to meet the changing needs of the state. However, not all the changes that have been introduced in the state legislature, have been incorporated into the code. This reflects the diverse nature of the legislature and in the case of some legislation the desire of the municipalities to remain free of state control in local matters.

Some of the changes being recommended in this report are designed to update the code, while others are to improve the code of Rhode Island. Still other recommendations will improve the code by virtue of being added to the code and their subsequent enforcement by additional communities. The feeling among code officials is that the Rhode Island code is one of the best in the country. The proposed changes will serve to bolster both the code and its standing in the nation.

In his speech as outgoing president of the Rhode Island Municipal Code Enforcement Association (Code Association), Mr. Nicholas DeStefano said he felt that a uniform housing code and code administration within the state would make

the code both legitimate and creditable in the landlords and tenants eyes.¹ As the survey showed, there are 15 local housing codes in addition to the state code being enforced to various degrees. This proliferation of codes makes it hard to arrive at a clear idea of what code is being enforced. This problem is compounded by localities that do not enforce a code or only enforce it passively and/or with part-time inspectors.

The last statement if not meant to lay the blame at the feet of those communities, or any community. What is seen in a lack of a code or part-time inspectors is a symptom, not a cause. The cause is composed of many factors, all of which must be faced and resolved. The lack of a central national organization and code is not a problem that a state can solve. Rhode Island can, however, make use of what it does have -- the existing housing code.

This code should be made the minimum code for all localities. Presently localities are not mandated to accept the code, this should be changed. This is not to advocate a big brother approach. Rather, all the existing codes in use in the state, and other codes if it is felt they are pertinent, should be gathered and compared. This step is being taken now. The Department of Community Affairs, Housing and Government Assistance section is compiling the local housing codes and will make its presentation at the housing code seminar that is planned to be held this fall.

By making the code the minimum standard for the state, there can be a consistency in administration across the

state. There will also be a resultant consistency in the steps taken by both the localities and courts in enforcing the code. Cities wanting to emphasize an area of the code by enacting more stringent legislation will be permitted to do so. A listing of these special local acts should be kept in a central location for comparison and possible addition to the state code.

The central location should be an office similar in function to that of the Building Code Standards Committee. While it might seem that a separate office would be preferable, an incorporation of the two offices could be advantageous. Possibly the greatest advantage would be the opportunity for the two codes to be compared and modified if necessary to eliminate conflict.

It would appear that the largest obstacle to a housing code standards committee is that of funding. The lack of funds is also a hinderance to many localities, preventing them from hiring full-time housing inspectors. The funding, it would seem in this case, would best come from the state level. Some of the funding should go to establish a housing code standards committee as described earlier. The rest of the funding should go to the cities and towns and would be used to expand the existing housing inspection staff size. This would enable each locality to have at least one full-time housing inspector on duty.

Code Improvements

Several Proposed changes were presented together in

a 1979 bill that included an occupancy permit system.² It is the feeling of the DCA liaison to the Code Association, John Desautel and other members of the Code Association that this one section resulted in the bill's failure. The concept of occupancy permits does not appear to be acceptable to the legislature or the localities it represents. The permit system is not a new idea. University City, a suburb of St. Louis, Missouri, adopted an occupancy permit system in 1967.³ The ordinance requires that all new renters or owners apply for an occupancy permit. There are two fees involved, the first the landlord or present owner pays, the second the new occupant pays. The success of the program can be seen in the fact that in the first 7 years of operation, 60 to 70 percent of the dwelling units had been inspected and brought up to code standards. Another indication of success is that 46 municipalities, representing 70 percent of the population in incorporated St. Louis County are using occupancy permit programs.

Other suggested changes included the installation of smoke detectors in all dwelling units. While this may seem like an imposition on landlords and other property owners and not the proper function of a housing code, it is in fact the proper function. In the same way a fire sprinkler system had to be installed as part of the housing code requirements⁴ in an apartment building, a smoke detector would be required to be installed as part of the police power and general health, safety and welfare requirement. There is also precedence for installation of smoke detectors

within the General Laws. In the section on community homes there is a requirement for smoke/fire detectors.⁵

Two other new additions to the code also have been proposed. The first relates to the heating requirements in the code.⁶ This section presently requires that the heating facilities be capable of heating all habitable rooms to at least 68° Fahrenheit as measured at a point 18" above the floor. These measurements should be changed to 65° Fahrenheit measured at 60 inches above the floor. Sixty inches is the normal height for a thermostat. The second proposal was to modify the egress requirements of multiple dwellings⁷ so all egresses will have a minimum head room of 6 foot 6 inches.

Code Administration and Enforcement

Presently, housing codes are single standard codes; that is, for each area of the code there is a single minimum standard that is applied to the entire geographical area. If this standard is set too high it will be unenforceable in the worst areas and may lead to housing abandonment. If the standard is set too low, it does nothing for the good areas and may, in fact, allow the gray areas to decline.

This problem was recognized in one proposal which suggested that a zoned housing code, based on the flexible standards that are used in a zoning ordinance, was proposed.⁸ In the 1950s a proposal was made in Wisconsin which would authorize the City of Milwaukee to establish

a zoned housing code.⁹ The city did not adopt the code, and to date no city has made use of the code.

Under a flexible housing code, the locality is divided into different areas, corresponding to the frequently used terms of "good", "gray" and "worst" used to describe an area. Different minimum standards and guidelines would be applied for maintenance in each of these areas. The standards within the areas would be graduated upward in relation to the quality of housing in the area, the code would also provide guidelines for the maintenance of each dwelling type within that area. The key to the success of a flexible code would be in the "gray" areas where residential areas are basically sound but declining in quality.¹⁰

The same constitutional restraints that apply to a single housing code apply to a flexible code, with the addition of one other -- that of uniformity of enforcement. This issue was raised in Brennan v. City of Milwaukee.¹¹ The court applied the following rules upon which should be based the proper exercise of the police power: (1) the classes must really be different from another, (2) the classification must be related to the purposes of the law, (3) the classification must not be based upon only existing circumstances and (4) the law must be equally applied to each member of a particular class.¹² In a discussion of a flexible housing code, the Villanova Law Review felt that these requirements could be met with the

code and that the courts would uphold the code based on the findings of a number of past decisions in both zoning and property cases.¹³

The state of Rhode Island could not adopt this type of law for itself. The state is too diverse. What could be done, however, is to word a law so that the localities could adopt the flexible code and enforce it themselves. To minimize the possibility of court cases and mismanagement invalidating the law, the state would have to keep a watch on the localities that are using the flexible code. Again this would have to be done through a state agency such as a code standards committee. This code could not be written into the existing housing code, there are too many differences. There would need to be a new code written and enforced in addition to the present single standard code, a locality could enforce one or the other code.

The concept of occupancy codes has already been discussed to some degree. A review of the survey of the localities shows that there is not much support for an occupancy permit system, only one city and one town enforce the system. While several other localities will inspect if asked, this fact is not generally known, thus there is not a large call for this type of inspection. The permit system can be important in maintaining a high degree of enforcement. A system similar to the University City program would enable the localities to maintain a high degree of enforcement compliance. The attempts to achieve

such a system should be maintained but not at the expense of other improvements to the code.

Code enforcement, whether done on a systematic or complaint basis has an impact on the effectiveness of the code. Complaint basis inspections are the simplest, being a response to code violations that are called into the office. The enforcement can be done on a part-time basis without having to maintain a large staff. There are fewer inspections to be made under this system than under a systematic inspection system. The system, however, does not allow for a check on the general condition of the locality, nor does it allow for a chance to check on units that may be substandard. A systematic code enforcement system, in contrast, can be used to check on the general condition of the municipality and also allows for the inspection of units without having to be called in to inspect.

In a systematic inspection system the locality is divided into several districts, in larger cities the districts are often aligned with the census tracts. Whatever district definition is used, each district is inspected in turn. When all the districts have been inspected the process starts again. This system requires a larger staff than a complaint system. The survey revealed that the Town of Narragansett is now starting a systematic inspection process with a staff of 1 full time and 1 part time inspector. This will be a reasonable test of how well smaller towns can adopt this system, it will also allow

the town to assess the effect of a complaint system. In 1971 the town completed a three year systematic inspection, since then code enforcement has been on a complaint basis. The ability of a locality to inspect on a systematic basis is to a large degree dependent on the financial commitment of that locality to the housing inspection. Again, a commitment from the state may enable more communities to use this system.

Code Enforcement and Other Programs

While housing code enforcement is important, it is by no means the only way that decent housing can be obtained. Code inspections can be dovetailed with other programs and in this way the programs can work better together than they could individually. Lester Gillis some time ago noted the need for code enforcement and other programs to work together.¹⁴ He felt the term "systematic code enforcement" must mean the enforcement of all the codes and ordinances affecting the living environment.¹⁵ The entire living environment is a broad topic. To narrow it down to reasonable proportions the discussion here will be limited to public health and a self-help program.

Public Health

In a speech before NAHRO, Alan Pond spoke of the need for housing codes and health laws to work together. While his concern was that it is a health agency's responsibility to establish some sort of minimum condition of health and safety if the local government fails to, he also felt that it was an agency's responsibility to see that the minimum

conditions were enforced.¹⁶

His emphasis, at the time of the speech, was on establishing standards for housing. These standards have been established within the state and are being enforced to various degrees. Perhaps now is the time for the health agencies to work with code enforcement agencies in a team effort to improve the effectiveness of both agencies. By working together as a team it would be less difficult to have improvements made in the housing code.

The health department would gain in that an improved housing code would raise the healthful environment of housing. This would have both long and short term results. In the short run there would be a reduction in the number of physical health problems related to poor housing and living conditions. In the long run there would be a lowering of emotional health problems that are aggravated by unhealthy and unsafe living conditions.

Self Help

The Neighborhood Housing Services (NHS) program was pioneered in Pittsburgh in 1968,¹⁷ involving local residents, banks and local government. In some respects it is like a CDBG program in that it is focused on specific neighborhoods, involves code enforcement and is a loan program, but that is where similarities end. This is a nongovernmental, nonbureaucratic, self help program.

The program startup required almost a year, while this seems like a long period of time it is needed to

establish the program and to get the parties working together. Residents have to work with each other and the other parties to show that the program is wanted in their neighborhood. Local banks are needed to underwrite the loans to the neighborhood as well as the operating budget. The city government has to help with site selection, a systematic code enforcement program and understand that it is an actor, working with two others, and not the whole program.

The loaning of funds to local residents is only the first part of the program (while businesses were not included in this program there is no reason that they could not be included). The second part of the program involved reinvestment in the neighborhood without the help of NHS. This reinvestment process is the ultimate goal of the program. It is the establishment of a changed attitude about a neighborhood.

NHS is only indirectly tied to code enforcement in that the enforcement is a subset in the program, but then it is not required that code enforcement be a program only unto itself. By working in this program and others like it the code shows that it is not just another bureaucratic program, but a program that is existing to help people.

Conclusions

In conclusion, while it would be difficult to say that the housing code effectively is working in Rhode Island, it is possible to say that the housing code is firmly in

place and is being enforced. This report did not set out to measure the effectiveness of the code, rather the aim was to determine the codes that were in use within the state and the ways they were being enforced. It would be remiss, however, if no mention were made of code effectiveness in general terms. After all, if a law is being enforced, but not achieving the desired result, it is worse than no law at all.

In a study of 38 standard metropolitan statistical areas (SMSA) between 1960 and 1974-5, Hirsch and Law found that in the presence of housing laws the substandard rental housing decreased. While their study centered on areas that had receivership laws as part of the housing code,¹⁸ and the Rhode Island code lacks this feature, it could be assumed that the substandard rental stock has declined although probably not to the upper reaches of the 1.4 to 4.6 percent decline Hirsch and Law found.¹⁹

Nevertheless, any improvement in housing conditions is desirable and an increase in improvement of conditions coupled with a decrease in substandard housing stock is to be valued more. This can be accomplished only through continuing enforcement of existing and updated housing laws. The recommendations and suggestions made here should be considered only a first step to that end. The comparison of housing codes to arrive at a standard state code is also a first step. There are many changes that need to be made and many projects that need to be done. The first of these is cooperation and contact between the many housing code related enforcement agencies.

Chapter V Footnotes

1. Nicholas DeStefano. Speech before the Code Association on April 16, 1980.
2. State of Rhode Island bill 79-H5430.
3. Downs, Bryan T.; Saunders, Joan and Collins, John N. "Occupancy Permits Provide an Older Suburb with an Anti-Blight Tool". Journal of Housing Volume 32, number 10, December, 1975 pp. 506-512.
4. See chapter II page 23, this text.
5. G. L. R. I. 23-28, 30-14.
6. G. L. R. I. 45-24, 23-9.
7. G. L. R. I. 45-24, 23-7.
8. "Housing Codes and the Prevention of Urban Blight". 17 Villanova Law Review 490 (1972).
9. Ibid. at 505.
10. Landman, Georgina B. "Flexible Housing Code". 18 Harvard Law Review 251.
11. 265 Wis. 52, 60 N. W. 2d 704 (1953).
12. Landman. "Flexible Housing Code" at 308.
13. "Housing Codes" at 511-515.
14. Gillis, Lester J. "Housing Code Enforcement, Single-Handed, Can't Improve Neighborhood Living Environment". Journal of Housing Volume 24, number 11, December, 1967, pp. 626-628.
15. Ibid. at 628.
16. Pond, Allen M. "The Role of U. S. Public Health Service" Journal of Housing Volume 21, number 5, June 15, 1964, pp. 261-264.
17. Ahlbrant, Roger S. Jr., and Brophy, Paul C. "Neighborhood Housing Services". Journal of Housing Volume 33, number 1, January 30, 1976, pp. 36-39.
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Appendix A

Basic Principles
of
Healthful Housing

BASIC PRINCIPLES OF HEALTHFUL HOUSING

- A. Fundamental Physiological Needs
 - 1. Maintenance of a thermal environment which will avoid undue heat loss from the human body
 - 2. Maintenance of a thermal environment which will permit adequate heat loss from the human body
 - 3. Provision of an atmosphere of reasonable chemical purity
 - 4. Provision of adequate daylight illumination and avoidance of undue daylight glare
 - 5. Provision for admission of direct sunlight
 - 6. Provision of adequate artificial illumination and avoidance of glare
 - 7. Protection against excessive noise
 - 8. Provision of adequate space for exercise and for the play of children

- B. Fundamental Psychological Needs
 - 1. Provision of adequate privacy for the individual
 - 2. Provision of opportunities for normal family life
 - 3. Provision of opportunities for normal community life
 - 4. Provision of facilities which make possible the performance of the tasks of the household without undue physical and mental fatigue
 - 5. Provision of facilities for maintenance of cleanliness of the dwelling and of the person
 - 6. Provision of possibilities for esthetic satisfaction in the home and its surroundings
 - 7. Concordance with prevailing social standards of the local community

- C. Protection Against Contagion
 - 1. Provision of a water supply of safe sanitary quality available to the dwelling
 - 2. Protection of the water supply against pollution within the dwelling
 - 3. Provision of toilet facilities of such a character as to minimize the danger of transmitting disease
 - 4. Protection against sewage contamination of the interior surfaces of the dwelling
 - 5. Avoidance of insanitary conditions in the vicinity of the dwelling
 - 6. Exclusion from the dwelling of vermin which may play a part in the transmission of disease
 - 7. Provision of facilities for keeping milk and food undecomposed

8. Provision of sufficient space in sleeping-rooms to minimize the danger of contact infection

D. Protection Against Accidents

1. Erection of the dwelling with such materials and methods of construction as to minimize danger of accidents due to collapse of any part of the structure
2. Control of conditions likely to cause fires or to promote their spread
3. Provision of adequate facilities for escape in case of fire
4. Protection against danger of electrical shocks and burns
5. Protection against gas poisoning
6. Protection against falls and other mechanical injuries in the home
7. Protection of the neighborhood against the hazards of automobile traffic

Appendix B
Rhode Island
Housing Maintenance
and
Occupancy Code

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

TITLE 45

CHAPTER 24.3

THE RHODE ISLAND

HOUSING MAINTENANCE

AND

OCCUPANCY CODE

GENERAL LAWS OF RHODE ISLAND--1956

RHODE ISLAND DEPARTMENT OF COMMUNITY AFFAIRS

HOUSING ASSISTANCE SECTION

MAY, 1980

CHAPTER 24.3

THE RHODE ISLAND HOUSING MAINTENANCE
AND OCCUPANCY CODE

Section.

- 45-24.3-1. Short title.
- 45-24.3-2. Legislative findings.
- 45-24.3-3. Purpose.
- 45-24.3-4. Applicability.
- 45-24.3-5. Definitions.
- 45-24.3-6. Responsibilities of owners and occupants.
- 45-24.3-7. Minimum standards for basic equipment and facilities.
- 45-24.3-8. Minimum standards for light and ventilation.
- 45-24.3-9. Minimum thermal standards (heating and cooling).
- 45-24.3-9.1. Independent electrical generating system.
- 45-24.3-10. General requirements relating to the safe and sanitary maintenance of parts of dwellings and dwelling units-
Lead-based substances.
- 45-24.3-11. Minimum space, use and location requirements.
- 45-24.3-12. Rooming house.
- 45-24.3-13. General requirements relating to the safe and sanitary maintenance of nonresidential structures and premises.
- 45-24.3-14. Adoption of plans of inspection.
- 45-24.3-15. Inspections - Powers and duties of the enforcing officer.
- 45-24.3-16. Rules and regulations - Enforcement agency - Housing board of review.
- 45-24.3-17. Notice of violation.
- 45-24.3-18. Penalties - District court jurisdiction - Review by Supreme Court.
- 45-24.3-19. Repairs and other corrective action - Demolition - Revolving fund.
- 45-24.3-20. Collection and dissemination of information.
- 45-24.3-21. Application for reconsideration - Conferences - Hearings - Emergencies - Obligations of owner - Court proceedings - Fees.
- 45-24.3-22. Conflict of ordinances - Effect of partial invalidity.

45-24.3-1. Short title. - This chapter shall be known and may be cited as "The Rhode Island housing maintenance and occupancy code."

45-24.3-2. Legislative findings. - It is hereby found that there exist and may in the future exist within the state of Rhode Island premises, dwellings, dwelling units, rooming units, structures, or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy affect or are likely to affect adversely the public health, including the physical, mental, and social well-being of persons and families, safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote health, safety, and general welfare, it is further found that the establishment of minimum housing standards for the state of Rhode Island is required.

It is hereby further found that conditions existing on such blighted premises are dangerous to the public health, safety, morals and general welfare of the people, and that conditions existing on such blighted premises necessitate excessive and disproportionate expenditure of public funds for public health and safety, crime prevention, fire protection, and other public services, and that the conditions existing on such blighted premises cause a drain upon public revenue, impairing the efficient and economical exercise of governmental functions in such areas.

It is hereby further found that the elimination of blighted premises, and the prevention of the recurrence of blighted premises, is in the best interest of the public, and that the accomplishment of this end will be fostered and encouraged by the enactment of this chapter. The enactment and enforcement of this chapter is thereby declared to be essential to the public interest. It is intended that the provisions of this chapter be liberally construed to effectuate its purposes heretofore stated.

45-24.3-3. Purpose. - The purpose of this chapter shall be to protect the public health, safety and welfare by establishing minimum standards governing the condition and maintenance of all dwellings and dwelling premises or structures, establishing minimum standards governing utilities and facilities and other physical things and conditions essential to make dwellings safe, sanitary, and fit for human habitation; fixing certain responsibilities and duties of owners, operators, and occupants of dwellings and dwelling premises and structures; and fixing the conditions whereby certain dwellings and structures may be declared unfit for occupancy and condemned for human habitation; and fixing penalties for violations of this chapter.

45-24.3-4. Applicability. - Every portion of a building or its premises used or intended to be used for the purposes of dwelling, living, eating, sleeping or cooking therein or occupancy, shall

45-24.3-4

comply with the provisions of this chapter and with the rules and regulations adopted pursuant thereto irrespective of when such building shall have been constructed, altered or repaired; and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the dwelling and dwelling premises or structure, for the construction or repair of the dwelling or structure or for the installation or repair of dwelling equipment prior to the effective date of this chapter. This chapter establishes minimum standards for the initial and continued occupancy of all dwellings and structures, and does not replace or modify standards otherwise established by the state or a corporate unit for the construction, repair, or use of building or the installation of building equipment except as they may be in conflict with the provisions of the chapter as provided by section 45-24.3-19.

45-24.3-5. Definitions. - The following definitions shall apply in the interpretation and enforcement of this chapter.

Accessory structure shall mean a detached structure which is not used or not intended to be used for living or sleeping by human occupants and which is located on the same premises with a dwelling.

Appropriate authority shall mean the official department, or agency designated by a local community to administer and enforce these regulations pursuant to the provisions of this chapter.

Approved shall mean approved by the local or state authority having such administrative authority.

Ashes shall mean the residue from the burning of combustible materials (and the noncombustible portion or refuse loaded into an incinerator.)

Basement shall mean a portion of the building partly underground, but having less than half its clear height below the average grade of the adjoining ground.

Cellar shall mean the portion of the building partly underground, having half or more than half of its clear height below the average grade of the adjoining ground.

Central heating system shall mean a single system supplying heat to one or more dwelling unit(s) or more than one rooming unit.

Corporate unit - The words "corporate unit" as used in this ordinance shall mean a city or town, as the (case) may be, delegated with the powers to provide for the enforcement of this ordinance.

Dwelling shall mean any enclosed space which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing, (as) hereinafter defined, shall not be regarded as a dwelling.

Dwelling units shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are unused or intended to be used for living, sleeping, cooking and eating.

Dormitory shall mean a room or group of rooms in a dwelling used for living and sleeping purposes by four (4) or more persons.

45-24.3-5

Extermination shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborages, by removing, or making inaccessible, materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the health officer.

Enforcing officer shall mean the official charged with the administration and enforcement of this ordinance or his authorized representative.

Family shall mean one adult person plus one or more persons who are legally related to said person and residing in the same dwelling unit with said person.

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

Guest shall mean any person who shares a dwelling unit in a non-permanent status for not more than thirty (30) days.

Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than fifty (50) square feet, foyers or communicating corridors, stairways, closets, storage, spaces and workshops, hobby and recreation areas in unsealed or uninsulated parts of a structure below ground level or in attics.

Health officer shall mean the legally designated director of health of this state, or his authorized representative.

Heated water shall mean water heated to a temperature of not less than 120° Fahrenheit.

Household shall mean a family and/or one or more unrelated persons, including servants and not more than two boarders, who share the same dwelling and use some or all of its cooking and eating facilities.

Infestation shall mean the presence within or around a dwelling or other structure in large numbers of insects, rodents, or other pests.

Kitchen shall mean any room containing any or all of the following equipment, or area of a room within three (3) feet of such equipment; sink, and/or other device for dish washing, stove or other device for cooking, refrigerator or other device for cool storage of food.

Lead-based substances shall mean any paint, plaster, or other building material which contains lead at levels:

(1) in excess of five tenths percent (.5%) lead by dry weight as measured by atomic absorption spectrophotometry test of sample or by testing with six to eight percent (6% to 8%) sodium sulfide solution. (lead per total weight measure)

45-24.3-5

or

(2) in excess of seven tenths milligrams (.7 mg.) lead per square centimeter of surface as measured on site by mobile x-ray fluorescence analyzer or comparable equipment. (lead per surface area measure)

Meaning of certain words. Wherever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises," and "structure" are used in this chapter they shall be construed as through they were followed by the words "or (any) part thereof." Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine, and the feminine the masculine.

Multiple dwelling shall mean any dwelling containing four (4) or more dwelling units.

Occupant shall mean any person, over one (1) year of age, living, sleeping, cooking, or eating in, or actually having possession of, a dwelling unit or a rooming unit, and/or structure except that in dwelling units a guest will not be considered an occupant.

Operator shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner shall mean any person who, alone or jointly or severally with others:

(a) shall have legal title to any dwelling, dwelling unit or structure with or without accompanying actual possession thereof, or

(b) shall have charge, care or control of any dwelling, dwelling unit or structure as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner, any such person, thus representing the actual owner, shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto to the same extent as if he were the owner.

Permissible occupancy shall mean the maximum number of persons permitted as family or household to reside in a dwelling unit or rooming unit based on the square foot per person in habitable rooms.

Person shall mean and include any individual, firm, corporation, association, or partnership.

Plumbing shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, waste pipes, garbage disposal units, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, septic tank or gas lines.

45-24.3-5

Potential hazardous material shall mean any toxic material, including building material containing heavy-metal compounds in concentrations dangerous to the public health as deemed by the department of health of this state.

Premises shall mean a platted lot or part thereof or unplatted lot or parcel of land, or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure, and includes any such building, accessory structure or other structure thereon.

Privacy shall mean the ability of a person or persons to carry out an activity commenced without interruption or interference, either by sight or sound, by unwanted persons.

Refuse shall mean all putrescible and nonputrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.

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

Rooming house shall mean any dwelling or that part of any dwelling containing three (3) or more rooming units in which space is occupied by three or more persons who are not members of a single family.

Rubbish shall mean nonputrescible solid wastes (excluding ashes) consisting of both:

(a) combustible wastes such as paper, cardboard, plastic containers, yard clippings, and wood, and

(b) noncombustible wastes such as tin cans, glass and crockery.

Safety shall mean the condition of being free from danger and hazards which may cause accidents or disease.

Septic tank shall mean a receptacle, usually underground, to which sewage is drained and retained to effect disintegration of the organic matter by bacteria.

Space heater shall mean a self-contained, automatically controlled, vented, fuel-burning appliance of either the circulating type or the radiant type.

Supplied shall mean paid for, furnished, provided by, or under the control of the owner or operator.

Structure shall mean all structures used or intended to be used for commercial, business, or industrial use or occupancy.

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

45-24.3-6. Responsibilities of owners and occupants. - No owner or operator or other person shall occupy, or let to another person, any vacant dwelling, dwelling unit or structure unless it and the premises are clean, sanitary, fit for human occupancy, and comply

45-24.3-6

with this chapter and all applicable legal requirements of the state of Rhode Island and the corporate unit.

Every owner of a multiple dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. Occupants of two (2) and three (3) family dwellings shall share the maintenance of clean and sanitary conditions within the shared or public areas of the dwelling and premises thereof.

Every occupant of a dwelling, dwelling unit or structure shall maintain in a clean sanitary condition that part or those parts of the dwelling, dwelling unit or structure and premises thereof that he occupies and controls.

Every occupant of a dwelling, dwelling unit or structure shall dispose of all his rubbish in a clean, sanitary and safe manner.

Every occupant of a dwelling, dwelling unit or structure shall dispose of all his garbage and any other organic waste which might provide food for insects and/or rodents in a clean, sanitary and safe manner, and if a container is used for storage pending collection it shall be rodent proof, insect proof, and water tight.

Every owner or operator of a dwelling containing four (4) or more dwelling units shall supply facilities or containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of single, two (2) or three (3) family dwellings, and structures it shall be the responsibility of the occupant to furnish such facilities or refuse containers.

The owner, of a dwelling, dwelling unit or structure shall be responsible for providing and hanging all screens and double or storm doors and windows where used for ventilation whenever the same are required under the provisions of this chapter or any rule or regulation adopted pursuant thereto, except where there is a written agreement between the owner and occupant. In the absence of such an agreement, maintenance or replacement of screens, storm doors and windows, once installed in any one season, become the responsibility of the occupant.

The owner of a dwelling or dwelling unit shall be responsible for providing and hanging of shades or other devices on every window of every room used for sleeping and for every room equipped with a flush water closet or bathtub, affording privacy to persons within said rooms, once installed in any one rental by the owner, replacements become the responsibility of the occupant.

Every occupant of a dwelling containing a single dwelling unit and every occupant of a structure shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit, in a dwelling containing more than one dwelling unit, shall be responsible for such extermination whenever his dwelling is the only one infected. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a

45-24.3-6

dwelling in a rodent proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

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

No owner or occupant of a dwelling, dwelling unit or structure shall accumulate or permit the accumulation of rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rodent harborage in or about any dwelling, dwelling unit or structure. Stored materials shall be stacked neatly in piles elevated at least eighteen (18) inches above the ground or floor.

45-24.3-7. Minimum standards for basic equipment and facilities. No person shall occupy as owner, occupant, or let to another for occupancy, any dwelling or dwelling unit for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall have adequate circulation area and which shall be equipped with the following:

A kitchen sink in good working condition and properly connected to a water supply system which is approved by the appropriate authority, and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system or septic tank which is approved by the appropriate authority.

Cabinets and/or shelves for the storage of eating and drinking and cooking equipment and utensils, and of food that does not, under ordinary maximum summer conditions, require refrigeration for safe keeping and a counter or table for food preparation; said cabinets and/or shelves shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction finished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

A stove or similar device, for cooking food, and a refrigerator, or similar device, for the safe storage of food at temperatures less than fifty degrees (50°) fahrenheit, but more than thirty-two degrees (32°) fahrenheit, under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation, provided that such stove, refrigerator, and/or similar devices, need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, and that sufficient space and adequate connections for the safe and efficient installation and operation

45-24.3-7

of said stove, refrigerator and/or similar devices is provided.

Within every dwelling unit there shall be a nonhabitable room which is equipped with a flush water closet and lavatory basin in good working condition. Said flush water closet shall be equipped with easily cleanable surfaces, be connected to a water system that at all times provides an adequate amount of running water under pressure so as to cause the water closet to be operated properly, and shall be connected to a sewer system or septic tank which is approved by the appropriate authority, and said lavatory basin shall be equipped with easily cleanable surfaces and be in good working condition and properly connected to an approved water supply system and which provides adequate heated and unheated running water under pressure at all times and connected to a sewer or septic system approved by the appropriate authority.

Within every dwelling unit there shall be a room, which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. Said bathtub or shower may be in the same room as the flush water closet or in another non-habitable room and shall be properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated, running water under pressure, and which is connected to a sewer system or septic tank which is approved by the appropriate authority.

Every dwelling unit above the first floor shall have approved dual means of egress, with minimum head room of six (6) feet, six (6) inches, leading to safe and open space at ground level. Every dwelling unit in a multiple dwelling shall have immediate access to two (2) or more approved means of egress one of which will have a minimum head room of six (6) feet, six (6) inches, leading to safe and open space at ground level, or as required by the laws of this state and the appropriate authority.

45-24.3-8. Minimum standards for light and ventilation. - No person shall occupy as owner, occupant, or let to another for occupancy, any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirement of this section.

Every habitable room shall have at least one (1) window or skylight facing directly outdoors (provided that if connected to a room or area used seasonally (e.g.:porch) (then) adequate daylight must be possible through this interconnection). The minimum total window area measured between stops, for every habitable room shall not be less than ten percent (10%) of the floor area of such room. Whenever walls or other portions of structures, face a window of any such room, and such light-obstructing structures are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the

45-24.3-8

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 ten percent (10%) of the total floor area of such room. Each window shall be not less than three (3) square feet in area.

Every habitable room shall have at least one (1) window or skylight facing directly outdoors which can be easily opened, or such other device as will adequately ventilate the room provided that if connected to a room or area used seasonally then adequate ventilation must be possible through this interconnection. The total of openable window area in every habitable room shall be equal to at least fifty percent (50%) of the minimum window area size, or minimum skylight type window size, as required in this section, except where there is supplied some other device affording adequate ventilation and lighting approved by the appropriate authority.

Every bathroom and water closet compartment and nonhabitable room used for food preparation shall comply with the light and ventilation requirements for habitable rooms contained in this section, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is approved by appropriate authority.

Where there is usable electric service available from power lines, which are not more than three hundred (300) feet away from a dwelling every dwelling unit, and all public and common areas, shall be supplied with electric service, outlet and fixtures which shall be properly installed shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a manner prescribed by the ordinances, rules and regulations of the corporate unit. The minimum capacity of such services, and the minimum number of outlets and fixtures, shall be as follows:

Every habitable room shall have an electric service and outlets and/or fixtures capable of providing at least three (3) watts per square foot of floor area.

Every habitable room and nonhabitable room used for food preparation shall have at least one (1) floor or wall type electric convenience outlet for each sixty (60) square feet, or fraction thereof, of floor area, and in no case less than two (2) outlets.

Every water closet compartment, bathroom, and kitchen or kitchenette, laundry room, furnace room, and public hall shall contain at least one (1) supplied ceiling, or wall, type electric light fixture.

Convenient switches or equivalent devices for turning on one light in each room or passageway shall be located so as to permit the area ahead to be lighted.

Every public hall and stairway in every multiple dwelling shall be adequately lighted by natural or electric light at all times so as to provide in all parts thereof at least six (6) footcandles of light at the tread or floor level. Every public hall and stairway in structures containing not more than three (3) dwelling units,

45-24.3-8

may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full time lighting.

45-24.3-9. Minimum thermal standards (heating and cooling). - No person shall occupy as owner, occupant, or let to another for occupancy, any dwelling or dwelling unit, for the purposes of living therein, which does not comply with the following requirements.

Every dwelling shall have heating facilities which are properly installed and are maintained in safe and working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein at a distance of eighteen (18) inches above the floor level under average winter conditions to a temperature of at least sixty-eight degrees (68°) fahrenheit.

Unvented flame space heaters are prohibited. No owner or occupant shall install, operate, or use a space heater employing a flame that is not vented outside the structure in an approved manner, portable electric heaters, approved under the appropriate local or state electrical and/or fire prevention code, are acceptable where they meet the above provisions of this section.

45-24.3-9.1. Independent electrical generating system. - On and after (September 1, 1978), all new construction of housing for the elderly shall contain an independent generating system for electrical power, which shall be sufficient to maintain the operation of the housing for the elderly in the event of a disruption of electrical power, except electrical heating systems.

45-24.3-10. General requirements relating to the safe and sanitary maintenance of parts of dwellings and dwelling units - Lead-based substances. - No person shall occupy as owner, occupant or let to another for occupancy, any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements.

Every foundation, floor, roof, ceiling, exterior and interior wall shall be reasonably weathertight, watertight and damp-free, and shall be kept in sound condition and good repair. Floors, interior walls, and ceilings shall be sound and in good repair. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. Potentially hazardous materials will not be used where readily accessible to children. Walls shall be capable of affording privacy for the occupants. Every premise shall be graded, drained, free of standing water, and maintained in a clean, sanitary, and safe condition.

45-24.3-10

Potentially hazardous material on the interior surfaces of any dwelling unit, rooming house, rooming unit or facility occupied by children is prohibited. Such interior surfaces include, but are not limited to window sills, window frames, doors, door frames, walls, ceilings, stair-rails and spindles or other appurtenances.

Lead-based substances are prohibited and deemed unsafe to the public health when identified on surfaces in such condition as to be accessible to young children, between the ages of one through six (1-6). This includes both interior and exterior surfaces where loose, flaking, cracking, peeling, chipping or otherwise damaged conditions of such substances are on a dwelling or dwelling unit occupied by children. Such surfaces include but are not limited to window sills, window frames, doors, door frames, walls, ceilings, banisters, porch railings and other appurtenances.

In each instance where surfaces are in the above-described conditions and circumstances, and there is reason to believe lead-based substances are present, the enforcing officer shall confirm whether suspect substances are lead-based by either:

(1) obtaining samples from damaged surfaces to be submitted for measure of lead content by dry weight by the department of health of this state

or

(2) obtaining readings of lead per surface area as measured on suspect surfaces by mobile x-ray fluorescence analyzer or comparable equipment by procedure outlined by the department of health of this state.

In all instances where substances in above-described conditions and circumstances are confirmed to be lead-based, the enforcing officer shall identify those specific areas deemed unsafe and in need of correction.

In all instances where lead-based substances in the above-described conditions and circumstances are identified on a dwelling or dwelling unit occupied by a child suffering from undue lead absorption, as diagnosed by appropriate medical authority, the enforcing officer shall consider such instances under "Emergencies" pursuant to section 45-24.3-21.

During the portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every door, opening directly from a dwelling unit to outside space, shall have supplied properly fitting screens having at least sixteen (16) mesh and self-closing device; and every window, door or other device with openings to outdoor space, used or intended to be used for ventilation (,) shall be supplied with screens.

Every window located at or near ground level, used or intended to be used for ventilation, and every other opening located at or near ground level which might provide an entry for rodents, shall be supplied with adequate screen or such other devices as will effectively prevent their entrance.

45-24.3-10

Every dwelling or accessory structure and the premises upon which located shall be rodent-proofed and maintained so as to prevent rodent harborage.

All openings in the exterior walls, foundations, basement, ground or first floors and roofs which have a half-inch (1/2") diameter or more opening shall be rat-proofed in an approved manner if they are within forty-eight inches (48") of the existing exterior ground level immediately below such openings, or if they may be reached by rats from the ground by climbing unguarded pipes, wires, cornices, stairs, roofs and other items such as trees or vines or by burrowing.

Skirting, lattice, or other non-rat-proofed enclosures displaying evidence of rat harborage under a porch or any portions of a building shall be rat-proofed at all locations where evidence of burrowing, or gnawing was found.

In the event that occupancy usages would result in stacking or piling materials, the materials shall be so arranged as to prohibit the creation of a harborage area. This can be accomplished by orderly stacking and elevating so that there will be a twelve-inch (12") opening between the material and the ground level. No stacking or piling of material shall take place against the exterior walls of the structure.

All doors, including swinging, sliding, and folding types, shall be constructed so that the space between the lower edge of the door and the threshold shall not exceed three-eighths inch (3/8"); provided further that the space between sections of folding and sliding doors when closed shall not exceed three-eighths inch (3/8").

Basement floors and/or the floors and areas in contact with the soil and located at a maximum depth of four feet (4') or less from the grade line shall be paved with concrete or other rat impervious material.

Any materials used for rodent control shall be acceptable to the appropriate authority.

All fences provided by the owner or agent on the premises and/or all fences erected or caused to be erected by an occupant shall be constructed of manufactured metal fencing material, wood, masonry, or other inert material. Such fences shall be maintained in good condition. Wood materials shall be protected against decay by use of paint or other preservative. The permissible height and other characteristics of all fences shall conform to the appropriate statutes, ordinances, and regulations of this state, and the corporate unit. Wherever any egress from the dwelling opens into the fenced area, there shall be a means of egress from the premises to any public way adjacent thereto.

Accessory structures present or provided by the owner, agency, or tenant occupant on the premises shall be structurally sound, and be maintained in good repair and free from insects and rodents, or such structure shall be removed from the premises. The exterior of such

45-24.3-10

structures shall be made weather resistant through the use of decay-resistant materials or the use of paint or other preservatives.

Every plumbing fixture and all water and waste pipes shall be properly installed and maintained in good working condition.

No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this ordinance to be removed from, or shut off from, or discontinued for any occupied dwelling or dwelling unit let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alteration are in process, or during temporary emergencies when discontinuance of service is approved by the appropriate authority.

All construction and materials, ways and means of egress, and all installation and use of equipment shall conform to applicable state and local laws dealing with fire protection.

45-24.3-11. Minimum space, use and location requirements. - No person shall occupy, or (let) to be occupied, a dwelling or dwelling unit, for the purpose of living therein, unless there is compliance with the requirements of this section.

A. Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof, and at least one hundred thirty (130) square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room space.

B. In every dwelling unit for two (2) or more rooms, every room occupied for sleeping purposes shall contain at least seventy (70) square feet of floor space for the first occupant, and at least fifty (50) square feet of floor space for each additional occupant thereof. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement, or cellar or to the exterior of a dwelling unit.

At least seventy-five per cent (75%) of the floor area of every habitable room shall have a ceiling height of no less than seven (7) feet and the floor area of that part of any room, where the ceiling height is less than five (5) feet, shall not be considered as part of the floor area of the room for the purpose of determining the maximum permissible occupancy thereof. At least fifty per cent (50%) of the floor area in attic rooms shall have a ceiling height of seven (7) feet.

No space, located totally or partially below grade, shall be used as a habitable room or dwelling unit unless:

The floor, and those portions of the walls below grade, are of water proof and damp proof construction;

The minimum window area, required in section 45-24.3-8 is located entirely above grade of the ground adjoining such window area or, if windows are located wholly or partly below grade, that there be constructed a properly drained window well whose ground open area shall be equal to, or greater than, the area of the window opening;

45-24.3-11

the bottom of the window well shall be below the top of the impervious masonry construction under this window; and the minimum horizontal projections of the bottom of the window well shall be equal to, or greater than, the vertical dimensions (depth) of the window well as measured from the bottom of the masonry opening for the window and no part of the window well opposite this window, shall protrude above the line projected at a forty-five degree (45°) angle from the bottom of the window opening at right angles to the outer wall.

The total openable window area in each room is equal to at least the minimum, as required under this chapter, except where there is supplied some other device affording adequate ventilation and humidity control and approved by the appropriate authority.

There are no pipes, ducts, or other obstructions, less than six (6) feet above the floor level which interfere with the normal use of the room or area.

C. Every dwelling unit shall have at least four (4) square feet of floor-to-ceiling height closet space, for the personal effects of each permissible occupant. If it is lacking in whole or in part, an amount of space, equal in square footage to the deficiency, shall be subtracted from the area of habitable room space used in determining permissible occupancy.

A dwelling unit shall not be occupied by more than one (1) family plus two (2) occupants unrelated to the family, except for guest or domestic employees or by not more than one (1) household if the occupants are unrelated, unless a permit for a rooming house has been granted by the appropriate authority.

D. Each dwelling shall have a suitable facility for the safe storage of medicines, toxic materials, and household poisons, such as ammonia, paint, gasoline, etc., to ensure safety for children in the residential environment.

45-24.3-12. Rooming house. - No person shall operate a rooming house, or shall occupy, or let to another for occupancy, any rooming house except in compliance with the provisions of sections 45-24.3-6 and 45-24.3-7 and section 45-24.3-11, parts A, B, C, and D. No owner or other person shall occupy, or let to another person, any vacant rooming unit unless it is clean, sanitary, and fit for human occupancy, and in compliance with all applicable requirements of this state and of the corporate unit.

No person shall operate a rooming house unless he holds a valid rooming house permit issued by the appropriate authority in the name of the operator and for the specific dwelling or dwelling unit specified therein. The operator shall apply to the appropriate authority for such permit, which shall be issued only after it has been determined that the rooming house is in compliance with the applicable provisions of this chapter and with any rules and regulations adopted pursuant thereto. This permit shall be displayed

45-24.3-12

in a conspicuous place within the rooming house at all times. No such permit shall be transferable. Every person holding such permit shall give notice in writing to the appropriate authority within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership, or control, of such rooming house. Every rooming house permit shall expire at the end of the year of license following its date of issuance, unless sooner suspended or revoked as hereinafter provided.

At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system or septic tank, approved by the health officer and in good working condition, shall be supplied for each six (6) persons, or fraction thereof, residing within a rooming house, including members of the operator's family wherever they share the use of said facilities, provided:

That in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half (1/2) the required number of water closets.

That all such facilities shall be so located within the dwelling as to be reasonably accessible for a common hall or passageway to all persons sharing such facilities;

That every lavatory basin and bathtub or shower shall be supplied with heated and unheated water under pressure at all times;

That no such facilities shall be located in a basement, except by written approval of the appropriate authority;

That cooking in a rooming unit shall be prohibited unless utilities are installed therein in accordance with applicable local and state law;

That communal cooking and dining facilities in a rooming house shall be prohibited, except as approved by the enforcing officer in writing;

That rooming unit doors shall have operating locks to insure privacy.

Every room occupied for sleeping purposes by one person shall contain at least eighty (80) square feet of floor space, and every room occupied for sleeping by more than one person shall contain at least sixty (60) square feet of floor space for each occupant thereof, and every such room shall also contain at least four (4) square feet of closet space per occupant with at least an unobstructed height of five (5) feet. If it is lacking in whole or in part of an amount of space, equal in square footage to the deficiency, shall be subtracted from the area of habitable room space used in determining permissible occupancy.

Every rooming unit above the first floor shall have immediate access to two (2) or more safe, unobstructed means of egress, appropriately marked one of which will have a minimum head room of six (6) feet six (6) inches, leading to a safe and open space at

45-24.3-12

ground level, as required by the appropriate statutes, ordinances, and regulations of this state and of the corporate unit.

Every provision of this chapter, which applies to rooming houses, shall also apply to hotels and motels, except to the extent that any such provisions may be found in conflict with the laws of this state or the corporate unit.

Structurally sound handrails shall be provided on any steps containing five (5) risers or more. If steps are not enclosed, handrails and balusters spaced no more than six (6) inches apart shall be provided. Porches and/or balconies located more than three (3) feet higher than the adjacent areas shall have (structurally) sound protective handrails thirty (30) to thirty-six (36) inches high, and if unenclosed balusters spaced no more than six (6) inches apart shall also be provided. Alternate systems providing at least the same degree of safety, if approved by the appropriate authority, will be accepted.

Access to or egress from each rooming unit shall be provided without passing through any other rooming unit, dwelling unit or bathroom.

45-24.3-13. General requirements relating to the safe and sanitary maintenance of nonresidential structures and premises. - No person shall occupy as owner, occupant or let to another for occupancy any vacant dwelling or nonresidential structure unless it and the premises are clean, sanitary, fit for human occupancy, and comply with sections 45-24.3-6, 45-24.3-9, 45-24.3-10, 45-24.3-14 through (45-24.3-22) and all applicable legal requirements of the state of Rhode Island and the corporate unit.

45-24.3-14. Adoption of plans of inspection. - The enforcing officer is hereby authorized and directed to develop and adopt plans for the inspection of dwelling units subject to the provisions of this chapter, including:

A plan for the systematic inspection of dwelling units contained in such contiguous areas within the corporate unit as may from time to time be designated by the enforcing officer.

Before making inspections within a contiguous area pursuant to a plan authorized in this section, the enforcing officer shall advise the organization which represents the property owners and other residents of such contiguous area, if any such organization exists.

45-24.3-15. Inspections - Powers and duties of the enforcing officer. - The enforcing officer shall enforce the provisions of this chapter and is hereby authorized and directed to make inspections pursuant to one or more of the plans for inspection authorized by section 45-24.3-14; or in response to a complaint that an alleged violation of this chapter or of applicable rules or regulations

45-24.3-15

pursuant thereto may exist; or when the enforcing officer has valid reason to believe that a violation of this chapter or any rules and regulations pursuant thereto has been or is being committed.

The enforcing officer is hereby authorized to enter and inspect between the hours of 8 a.m. and 5 p.m. all dwellings, dwelling units, rooming houses, rooming units, dormitory rooms, and structures subject to this chapter, for the purpose of determining whether there is compliance with its provisions.

The enforcing officer is hereby authorized to inspect the premises surrounding dwellings, dwelling units, rooming houses, rooming units, dormitory rooms, and structures subject to this chapter, for the purpose of determining whether there is compliance with its provisions.

The enforcing officer and the owner, occupant or other person in charge of a dwelling, dwelling unit, rooming unit, rooming house, dormitory room, or structure subject to this chapter may agree to an inspection by appointment at a time other than the hours provided in this section.

The owner, occupant or other person in charge of a dwelling, dwelling unit, rooming unit, rooming house, dormitory room or structure upon presentation of proper identification by the enforcing officer, a copy of any relevant plan of inspection pursuant to which entry is sought, and a schedule of the specific areas and facilities to be inspected shall give the enforcing officer entry and free access to every part of the dwelling, dwelling unit, rooming unit or dormitory room, or structure to the premises surrounding any of these.

The enforcing officer shall keep confidential all evidence and information not related to the purposes of this chapter which he may discover or obtain in the course of an inspection made pursuant to this section and such evidence shall be considered privileged. Evidence so obtained shall not be disclosed except as may be necessary in the judgment of the enforcing officer for the proper and effective administration and enforcement of the provisions of this chapter and rules and regulations issued pursuant thereto and shall not otherwise be admissible in any judicial proceeding without the consent of the owner, occupant, or other person in charge of the dwelling unit or rooming unit, or structure inspected.

If any owner, occupant, or other person in charge of a dwelling, dwelling unit or rooming unit, or of a multiple dwelling or a rooming house or structure, fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof, with respect to which an inspection authorized by this chapter is sought to be made, the enforcing officer may, upon a showing that probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this section with respect to such dwelling, dwelling

45-24.3-15

unit, rooming unit, multiple dwelling, or rooming house or structure petition and obtain such order from a court of competent jurisdiction.

Any person who refuses to comply with an order issued pursuant to this section shall be subject to such penalties as may be authorized by law for violation of a court order.

The enforcing officer shall have the right to prosecute for any violation of this chapter as provided by law, and is hereby authorized to execute all warrants, with the exception of search warrants, for the violation of laws, rules and regulations relating to this chapter and to serve subpoenas issued for the trial of all offenses against the laws, rules and regulations relating to this chapter.

45-24.3-16. Rules and regulations - Enforcement agency - Housing board of review. - The local authority is hereby authorized to make, adopt, revise and amend such rules and regulations as it deems necessary for the carrying out of the purposes of this chapter.

Establishment of enforcement agency. The local authority will further provide for the creation and establishment of such division, offices, departments, bureaus, and agencies and their respective officers, deputies and agencies as may be required to enforce and administer the powers and duties authorized by this chapter.

Housing board of review. The local authority will provide for the selection and organization of a housing board of review consisting of five (5) members. The local authority is authorized to designate the board of appeals as the housing board of review in the cities and towns where such boards of appeal now exists or may hereinafter be authorized by law. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of such board shall be open to the public. Any such housing board of review established pursuant to this chapter shall be governed by the following procedure:

The board shall keep minutes of its proceedings, showing the vote upon each question, and shall keep records of its decisions and findings and the reasons therefor, and of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record.

The housing board of review shall be governed by section 45-24.3-21 pertaining to appeals therefrom.

45-24.3-17. Notice of violation. - Whenever the enforcing officer determines that any dwelling, dwelling unit, rooming unit, or structure, or the premises surrounding any of these, fails to meet the requirements set forth in this chapter or in applicable rules and regulations issued pursuant thereto, he shall issue a notice setting forth the alleged failures, and advising the owner, occupant, operator, or agency that such failures must be corrected. This notice shall:

45-24.3-17

Be in writing.

Set forth the alleged violations of the chapter or of applicable rules and regulations issued pursuant thereto.

Describe the dwelling, dwelling unit, rooming unit, or structure where the violations are alleged to exist or to have been committed.

Provide a reasonable time, not to exceed sixty (60) days, for the correction of any violation alleged.

Be served upon the owner, occupant, operator, or agent of the dwelling, dwelling unit, rooming unit, or structure personally, or by certified or registered mail, return receipt requested, addressed to the last known place of residence of the owner, occupant, operator, or agent.

If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such person or persons by posting a notice in or about the dwelling, dwelling unit, rooming unit, or structure described in the notice, or by causing any such notice to be published in a newspaper of general circulation, for a period of three (3) consecutive days.

At the end of the period of time allowed for the correction of any violation alleged, the enforcing officer shall reinspect the dwelling, dwelling unit, rooming unit or structure described in the notice.

If upon reinspection the violations alleged are determined by the enforcing officer not to have been corrected, he shall issue a second notice of violation which shall constitute an order requiring that the then existing failures to meet the requirements of this chapter or of applicable existing rules or regulations issued pursuant thereto, shall be corrected within a reasonable time allowed, but not to exceed sixty (60) days after the date of such reinspection, if the person served with such notice does not petition for a hearing on the matter in the manner hereinafter provided.

The enforcing officer shall cause a copy of the second notice to be posted in a conspicuous place in or about the dwelling, dwelling unit, rooming unit, or structure where the violations are alleged to exist, and shall serve it in the manner provided in this section.

The enforcing officer, after the expiration of time granted the person served with such second notice to seek a hearing in the manner hereinafter provided by this chapter, or after final decision by the housing board of review or by a court of competent jurisdiction to which an appeal has been taken, shall cause the second notice to be recorded in the land registry of the corporate unit.

Such notice and a lien shall state that a violation of this chapter has occurred and that a cumulative civil penalty has been imposed. Such lien shall have the same priority as any municipality tax lien. No notice and lien recorded under this chapter shall be released until such violation has been abated and the penalty imposed as provided for in section 45-24.3-18 has been paid. Any lien recorded under this chapter may be foreclosed in the manner provided by law for the foreclosure of tax liens.

45-24.3-17

All subsequent transferees of the dwelling, dwelling unit, rooming unit, or structure in connection with which a second notice has been so recorded shall be deemed to have notice of the continuing existence of the violations alleged, and shall be liable to all penalties and procedures provided by this chapter and by applicable rules and regulations issued pursuant thereto to the same degree as was their transferor.

It shall be unlawful for the owner of any residential or non-residential building upon whom a notice of violation or order has been served to sell, transfer, mortgage, lease or otherwise dispose thereof to another until the provisions of the notice or order have been complied with or until such owner shall first furnish to the grantee, lessee or mortgagee prior to such transfer, lease or mortgage, a true copy of any notice or order issued by the enforcing officer, and at the same time notify the enforcing officer in writing of the intent to transfer, lease, or mortgage either by delivering said notice of intent to the enforcing officer and receiving a receipt therefor, or by registered or certified mail, return receipt requested, giving the name and address of the person to whom the transfer, lease or mortgage is proposed. A transferee, lessee, or mortgagee who has received actual or constructive notice of the existence of a notice or order shall be bound by such notice or order as of the date of such transfer, mortgage or lease without service of further notice upon him.

45-24.3-18. Penalties - District court jurisdiction - Review by Supreme Court. - (a) Civil penalty. - Any owner, occupant, operator or agent, of dwelling, dwelling unit, rooming unit, or structure who has received the second order or notice of a violation of this chapter shall be subject to a cumulative civil penalty of three dollars (\$3.00) per day for each day each violation continues after expiration of the specified reasonable consideration period; provided that no such penalty shall be applicable while a reconsideration, hearing or appeal to a court of competent jurisdiction is pending in the matter. In such instances where emergencies exist pursuant to section 45-24.3-21, any owner, operator, occupant or agent of a dwelling, dwelling unit, rooming unit, or structure shall be subject to a cumulative civil penalty of one hundred dollars (\$100) per day for each day emergency violation continues.

(b) Criminal penalties. - Willful or reckless violations; false statements. - Any person who (:)

(1) willfully or recklessly violates any provision of this chapter, or

(2) willfully or recklessly violates, or fails to comply with, any requirement of an order of the enforcing officer; or

(3) makes, or causes any other to make, any false or misleading statement on any registration statement, notice or other document required to be filed pursuant to this chapter, or on any application,

45-24.3-18

or any accompanying document, for the granting of any permit or any other action by the appropriate authority pursuant to this chapter, shall be guilty of a violation, as defined in section 11-1-2, punishable by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500) for each such violation, and each day's failure to comply with any such provision shall constitute a separate violation.

A person commits a willful violation when he intentionally acts or intentionally fails to act, to cause a condition that violates this chapter. A person commits a reckless violation when he acts, or fails to act, with a conscious disregard of a substantial risk that the act or failure to act will result in a condition, constituting a violation of this chapter, which will endanger the life, health, or safety of another person. The district court shall have exclusive original jurisdiction of all such violations as provided in section 12-3-1. A party aggrieved by any judgment of the district court imposing such fine may seek review by the Supreme Court in accordance with section 12-22-1.1.

45-24.3-19. Repairs and other corrective action - Demolition - Revolving fund. - Repairs and other corrective action. Whenever an owner, operator, or agent of a dwelling, dwelling unit, rooming unit, or structure fails, neglects, or refuses to make repairs or other corrective action called for by a second order or notice of violation issued pursuant to section 45-24.3-17, the enforcing officer may undertake such repairs or action, when in its judgment a failure to make them will endanger the public health, safety or welfare, and the cost of such repairs and action will not exceed fifty per cent (50%) of the fair market value of the structure to be repaired.

Notice of the intention to make such repairs or take other corrective action shall be served upon the owner, operator, or agent pursuant to section 45-24.3-17.

Every owner, operator, or agent of a dwelling, dwelling unit, rooming unit, or structure who has received notice of the intention of the enforcing officer to make repairs or take other corrective action shall give entry and free access to the agent of the enforcing officer for the purpose of making such repairs.

Any owner, operator, agent or occupant of a dwelling, dwelling unit, rooming unit or structure who refuses, impedes, interferes with, hinders, or obstructs entry by such agent pursuant to a notice of intention to make repairs or take other corrective action shall be subject to a civil penalty of twenty-five dollars (\$25.00) for each such failure to comply with this section.

When repairs are made or other corrective action taken at the direction of the enforcing officer, cost (of) such repairs and corrective action shall constitute a debt in favor of the corporate unit against the owner of the repaired structure. In event such

45-24.3-19

owner fails, neglects, or refuses to pay the corporate unit the amount of this debt, it shall be recoverable in a civil action against the owner of his successor, brought in a court of competent jurisdiction by the corporate unit which shall possess all right of a private creditor.

Designation of unfit dwellings, dwelling units, rooming units, and structures. Any dwelling, dwelling unit, rooming unit, or structure, shall be designated as unfit for human habitation, when any of the following defects or conditions are found, and when in the opinion of the enforcing officer, these defects create a hazard to the health, safety, or welfare of the occupants or of the public:

Is damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested.

Lacks illumination, ventilation, or required thermal and sanitation facilities.

The general condition of location is unsanitary, unsafe, or unhealthful.

Whenever any dwelling, dwelling unit, rooming unit, or structure has been designated as unfit for human habitation, the enforcing officer shall placard the dwelling, dwelling unit, or rooming unit, or structure, indicating that it is unfit for human habitation, and, if occupied, shall order the dwelling, dwelling unit, rooming unit, or structure vacated within a reasonable time, such time to be not more than thirty (30) days.

No dwelling, dwelling unit, rooming unit, or structure, which has been designated as unfit for human habitation and which has been placarded as such and has been vacated shall be used again for human habitation until written approval is secured from the enforcing officer and the placard removed by the enforcing officer.

The enforcing officer shall rescind the designation and remove the placard when the defect or condition upon which such designation and such placarding was based has been removed or eliminated as to cause the dwelling, dwelling unit, rooming unit, or structure, to be deemed by the enforcing officer as a safe, sanitary, and fit place or unit for human habitation.

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

Any person affected by any decision of the enforcing officer or by any designation or placarding of a dwelling, dwelling unit, rooming unit, or structure as unfit for human habitation shall be granted a hearing on the matter before the enforcing officer under the procedure set forth in section 45-24.3-21.

The enforcing officer may order the owner of any building, which has been in the past and/or is vacant and open at door and/or window to be boarded to comply with the following specifications;

45-24.3-19

All openings (including doors and windows) from cellar to second floor inclusive, and all windows above the second floor leading to fire escapes, porches, or structural appurtenances on all floors must be covered from the exterior with three eighths inch (3/8") thick exterior plywood or one-half inch (1/2") notched boards firmly secured and with protective coating. All other windows must be so secured by either one-quarter inch (1/4") thick exterior plywood or one-half inch (1/2") notched boards.

Demolition of dwellings, dwelling units, or rooming units designated as unfit for human habitation. The enforcing officer shall order a dwelling, dwelling unit, or rooming unit to be demolished if it has been designated as unfit for human habitation, has been placarded as such, has been vacated, has not been put into proper repair as to rescind the designation as unfit for human habitation and to cause the placard to be removed, and is determined by the enforcing officer not to warrant repair under section 45-24.3-19.

The owner of any dwelling, dwelling unit, or rooming unit which has been ordered demolished, shall be given notice of this order in the manner provided for service of notice in section 45-24.3-17 and shall be given a reasonable time, not to exceed ninety (90) days, to demolish such structure.

Any owner aggrieved by the notice to demolish may within ten (10) days seek a reconsideration of the matter in the manner hereinafter provided, and may seek a formal hearing in the manner provided in section 45-24.3-21.

When the owner fails, neglects, or refuses to demolish an unfit, unsafe, or unsanitary dwelling, dwelling unit, or rooming unit within the requisite time, the enforcing officer may apply to a court of competent jurisdiction for a demolition order to undertake the demolition. The court may grant such order when no reconsideration or hearing on the matter is pending. The cost of such demolition shall create a debt in favor of this corporate unit against such owner, and shall be recoverable in a civil action brought by the corporate unit which shall possess all the rights of a private creditor.

Whenever a dwelling is demolished, whether carried out by the owner or by the enforcing officer, such demolition shall include the filling in of the excavation remaining on the property on which the demolished dwelling was located, in such manner as to eliminate all potential danger to the public health, safety, or welfare arising from such excavation.

All demolition shall be preceded by an inspection of the premises by the appropriate authority as provided for by the laws of this state.

Relocation of occupants. Notwithstanding the other provisions of this section, no dwelling shall be vacated or demolished by the director, under the powers granted to him by the provisions of this ordinance, until persons occupying the dwelling at the time the

45-24.3-19

compliance order is issued have been offered housing accommodations in a decent, safe and sanitary dwelling which meets the requirements of this ordinance.

Revolving fund. There is hereby created a revolving fund for the purpose of supporting the cost of repairs and other corrective action or demolition made by the enforcing officer pursuant to this section. Into this fund shall be paid:

All civil penalties collected for violations of this ordinance pursuant to section 45-24.3-18.

All license fees collected pursuant to this chapter.

All judgments collected in actions to recover the costs of repair and other corrective action and demolition, pursuant to this section.

Such other revenues as the corporate unit may from time to time authorize to be paid into this fund.

All donations and grants designed to promote the purposes of this chapter from public or private sources. The enforcing officer is hereby declared to be the authorized agency of the corporate unit to apply for and receive all grants, loans, and gifts of funds to promote the purposes of this chapter.

Rent payments. Notwithstanding any lease or other agreement, if the enforcing officer of any corporate unit shall have ordered the repair, alteration or improvement of a dwelling in that he shall have designated the same to be an unfit dwelling as provided for in this section then the obligation of rent (therefor) to the landlord shall be suspended and the same shall be paid into the revolving fund as established herein by the enforcing officer, to be paid thereafter to the landlord or any other party authorized to make repairs (including the enforcing officer) to defray the cost of correcting the conditions and no action shall be maintained by the landlord against the tenant for such rent or for possession. Sums paid into the revolving fund in excess of those necessary to make repairs shall be paid to the landlord on completion. If the tenant shall fail to make payments to the enforcing officer then an action for rent or possession may be maintained, subject to such defenses as the tenant may have under the lease or agreement.

45-24.3-20. Collection and dissemination of information. - The enforcing officer is hereby authorized to collect and disseminate information concerning techniques of maintenance, repair, and sanitation in housing, and concerning the requirements of this chapter and applicable rules and regulations issued pursuant thereto.

45-24.3-21. Application for reconsideration - Conferences - Hearings - Emergencies - Obligations of owner - Court proceedings - Fees. - Application for reconsideration. Any person aggrieved by a notice of the enforcing officer issued in connection with any alleged

45-24.3-21

violation of this chapter or of applicable rules and regulations issued pursuant thereto, or by any order requiring repair or demolition pursuant to section 45-24.3-19 may apply to the enforcing officer for a reconsideration of such notice or order within ten (10) days after it has been issued.

The enforcing officer shall set a time and place for an informal conference on the matter within ten (10) days of the receipt of such application and shall advise the applicant of such time and place in writing.

At the informal conference, the applicant shall be permitted to present his grounds for believing that the order should be revoked or modified to one or more representatives of the enforcing officer.

Within ten (10) days following the close of the informal conference the enforcing officer shall advise the applicant whether or not it will modify or set aside the notice or order issued by the enforcing officer.

Hearings. Any person aggrieved by a notice of the enforcing officer issued in connection with any alleged violation of the provisions of this chapter or of any applicable rules and regulations pursuant thereto, or by any order requiring repair or demolition pursuant to section 45-24.3-19, may file with the housing board of review a petition setting forth his reasons for contesting the notice or order.

Such petition shall be filed within ten (10) days after the notice or order is served on petitioner in the manner prescribed by section 45-24.3-17.

Upon receipt of a valid petition, the housing board of review shall either grant or deny the hearing requested, and shall advise petitioner of its decision in writing within ten (10) days of the day on which his petition was received.

When the housing board of review determines to hold a hearing, it shall serve petitioner with notice of its decision in the manner provided for service of notice in section 45-24.3-17. Such notice shall be served within ten (10) days of the receipt of the petition.

At the hearing, the petitioner shall be given an opportunity to show cause why the notice or order should be modified or withdrawn, or why the period of time permitted for compliance should be extended.

The housing board of review shall have the power to affirm, modify or revoke the notice or order, and may grant an extension of time for the performance of any act required of not more than three (3) additional months where the housing board of review finds that there is practical difficulty or undue hardship connected with the performance of any act required by the provisions of this chapter or by applicable rules or regulations issued pursuant thereto, and that such extension is in harmony with the general purpose of this chapter to secure the public health, safety and welfare.

The housing board of review may grant variances from the provisions of the chapter or from applicable rules and regulations

45-24.3-21

issues pursuant thereto when the housing board of review finds that there is practical difficulty or unnecessary hardship connected with the performance of any act required by this chapter and applicable rules and regulations pursuant thereto; that strict adherence to such provisions would be arbitrary in the case at hand; that extension would not provide an appropriate remedy in the case at hand, and that such variance is in harmony with the general purpose of this chapter to secure the public health, safety and welfare.

Emergencies. Whenever, in the judgment of the enforcing officer an emergency exists which requires immediate action to protect the public health, safety, or welfare, an order may be issued, without notice, conference, or hearing, directing the owner, occupant, operator, or agent to take such action as is appropriate to correct or abate the emergency. If circumstances warrant the enforcing officer may act to correct or abate the emergency.

The owner, occupant, operator, or agent shall be granted a conference on the matter upon his request, as soon as practicable, but such conference shall in no case stay the abatement of correction of such emergency.

Any person, including the enforcing officer, aggrieved by any decision of the housing board of review, may present to the court of competent jurisdiction petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board. The filing of the complaint shall not stay proceedings upon the decision appealed from, but the court may on application, upon notice to the board and on due cause show, grant a restraining order. The board shall not be required to return the original papers acted on by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such order of court. The return shall concisely set forth other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a master to take such evidence as it may direct (and) report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly or may modify the decision brought up for review.

There shall be no right of appeal from the final judgment, decision or order of the court. Any person or persons jointly or severally aggrieved by the final judgment, decision or order of the court may petition the supreme court for the prerogative writ of certiorari to review such judgment, decision or order.

45-24.3-21

Court proceedings. The superior court shall upon due proceedings institute in the name of any of the several cities or towns, have power to issue any extraordinary writ or to proceed according to equity or both: (a) to restrain, prevent, enjoin, abate, or correct a violation; (b) or to order the repair, vacation or demolition of any dwelling existing in violation of the provisions of this chapter or to otherwise compel compliance with all of the provisions of this chapter or corporate unit ordinances adopted pursuant to the authority hereof. When under the provisions of this chapter or of any ordinance passed pursuant to the authority hereof, any work is done or material furnished by any enforcing officer or by his order at the expense of the owner or other persons interested, the value of such work and material may be recovered in an action of the case brought against such owner or other interested person or persons, and if any such work or materials shall have been done or furnished at the cost of the corporate unit, such enforcing officer shall cause the same to be brought in the name of the corporate unit. Upon the entry of any case or proceeding brought under the provisions of this chapter, the court shall at the request of either party advance the case so that it may be heard and determined with as little delay as possible.

45-24.3-22 Conflict of ordinances - Effect of partial invalidity. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the corporate unit and of this state on or after (January 1, 1971), the provision which establishes the higher standard for the promotion and protection of the health, safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the corporate unit or of this state existing on (January 1, 1971) which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this chapter. If any section, subsection, paragraph, sentence, clause or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; and to this end the provisions of this chapter are hereby declared to be severable.

Prepared for Distribution
by
Housing Assistance Section
Rhode Island Department of Community Affairs

Appendix C

Section 8
Housing Quality Standards

and

Housing Services Unit
Pre-rental Inspection Form

HOUSING QUALITY STANDARDS

FEDERAL REGISTER
PART 882—SECTION 8
Housing Assistance Payments Program—
EXISTING HOUSING

RHODE ISALND DEPARTMENT OF COMMUNITY AFFAIRS

HOUSING ASSISTANCE SECTION

DECEMBER 1978

Section 332.109

HOUSING QUALITY STANDARDS

Housing used in the program shall meet the Performance Requirements set forth in this section. In addition, the housing shall meet the Acceptability Criteria set forth in this section except for such variations as are proposed by the PHA and approved by HUD. Local climatic or geological conditions or local codes are examples which may justify such variations.

A. Sanitary Facilities1. Performance Requirement

The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

2. Acceptability Criteria

A flush toilet in a separate private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

B. Food Preparation and Refuse Disposal1. Performance Requirement

The dwelling unit shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

2. Acceptability Criteria

The unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the Owner or the Family, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private

system. Adequate space for the storage, preparation, and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g. garbage cans).

C. Space and Security

1. Performance Requirement

The dwelling unit shall afford the Family adequate space and security.

2. Acceptability Criteria

A living room, kitchen area, and bathroom shall be present; and the dwelling unit shall contain at least one sleeping or living/sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside the unit shall be lockable.

D. Thermal Environment

1. Performance Requirement

The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

2. Acceptability Criteria

The dwelling unit shall contain safe heating and/or cooling facilities which are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil, or kerosene are unacceptable.

E. Illumination and Electricity

1. Performance Requirement

Each room shall have adequate natural or artificial illumination to permit normal indoor activities and

to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

2. Acceptability Criteria

Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two electric outlets one of which may be an overhead light, shall be present and operable in the living area, kitchen area, and each bedroom area.

F. Structure and Materials

1. Performance Requirement

The dwelling unit shall be structurally sound so as to protect the occupants from the environment.

2. Acceptability Criteria

Ceilings, walls, and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weathertight. The exterior wall surface shall not have any serious leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition. In the case of a mobile home, the home shall be securely anchored by a tiedown device which distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding.

G. Interior Air Quality

1. Performance Requirement

The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.

2. Acceptability Criteria

The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

H. Water Supply

1. Performance Requirement

The water supply shall be free from contamination.

2. Acceptability Criteria

The unit shall be served by an approved public or private sanitary water supply.

I. Lead Based Paint

1. Performance Requirement

- i. The dwelling unit shall be in compliance with HUD Lead Based Paint regulations, 24 CFR, Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 USC 4801, and the Owner shall provide a certification that the dwelling is in accordance with such HUD Regulations.
- ii. If the property was constructed prior to 1950, the Family upon occupancy shall have been furnished the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning.

HOUSING SERVICES UNIT INSPECTOR'S PRE-RENTAL FORM

S# _____

Address _____ Fl./Apt.# _____ Rent _____ Tel.# _____
 Client's Name _____ Present Address _____
 #Children _____ Per Req. Insp. _____ Tel.# _____
 Landlord's Name _____ Landlord's Address _____ Tel.# _____
 Insp. Schedule _____ Date Insp. _____ Insp. By _____

VIOLATIONS

Ceilings:

- C-1 Refinish ceiling(s)
- C-2 Repair ceiling, cracks, large hole(s)
- C-3 Replace ceiling, panels, door(s)

Door(s):

- D-1 Replace or repair door(s)
- D-2 Replace or repair door frame
- D-3 Replace hardware, door lock, striker knob(s)

Debris:

- D-1A Remove all debris from: apt., front hall, rear hall, under sink, closets, cellar

Electric:

- E-1 Repair bad wiring
- E-2 Repair/replace light fixture(s)
- E-3 Replace missing, broken socket/ or switch plate(a)

Plumbing:

- P-1 Replace missing trap
- P-2 Repair or replace leaking trap
- P-3 Repair leaking tub or shower
- P-4 Repair or replace leaking toilet
- P-5 Repair or replace leaking or missing pipe(s)
- P-6 Replace or repair leaking, broken or missing faucet(s) or re-enforce
- P-7 Make toilet operable/replace broken or missing cover or seat or re-enforce
- P-8 Re-enforce sink or toilet

Roof:

- R-1 Repair leaking roof

Railing, Steps:

- R-1A Repair loose or broken step(s)
- R-2 Repair or replace missing, railing ballusters

Floors:

- F-1 Repair floor/make impervious to water
- F-2 Repair flooring on porch
- F-3 Repair floor under sink or toilet

COMMENTS:

Heating:

- H-1 Correct or repair heating system
- H-2 Replace missing grill or heat duct
- H-3 Clean Boiler

Infestation:

- I-1 Exterminate for roaches or rats

Windows:

- W-1 Repair all cracked or broken window(s)
- W-2 Repair or replace rotted or broken sash
- W-3 Replace missing window(s)
- W-4 Make windows weathertight, replac putty, side sticks
- W-5 Make operable (replace ropes)

Wall:

- W-1A Repair wall crack(s) or hole(s)
- W-2A Remove peeling paint wall(s), window-sill(s), door(s)

Location of Violations:

Hall & Stairs: front _____
 Rear _____
 Living Room _____
 Dining Room _____
 Bedroom: front _____
 Middle _____
 Rear _____
 Spare _____
 Kitchen: _____
 Pantry: _____
 Bath: _____
 Yard: front _____
 Rear: _____
 Porch: front _____
 Rear: _____
 Attic: _____
 Cellar: _____

INSPECTION #1 OK _____ NOT OK _____
 NO ENTRY _____
 INSPECTION #2 OK _____ NOT OK _____
 NO ENTRY _____
 INSPECTION #3 OK _____ NOT OK _____
 NO ENTRY _____

Appendix D
Survey Questionnaire

SURVEY QUESTIONNAIRE

I am conducting a survey of the Housing Inspectors in Rhode Island for a research project at the University of Rhode Island and the Housing and Government Division of the Department of Community Affairs. The data will be used to assess the ways in which the local communities are enforcing housing codes in Rhode Island.

1. Name of community.
2. What housing code is enforced in your community
 State _____ Local _____ Both _____
 If both, to what extent is each enforced
 State _____ Local _____
3. Is your communities code enforcement
 Systematic _____
 Passive _____
4. Is a pre-rental _____ or pre-sale _____ inspection
 required for existing dwelling units
5. Is the housing inspector attached to the
 Building Office _____
 Housing Office _____
 Other _____ Specify _____
6. What is the size of your housing inspection staff
 Full time _____ Part-time _____
7. What is the experience and background of your staff
 Type of experience _____
 Number of years _____

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