

CHAPTER XII

BUILDINGS AND HOUSING; SOIL REMOVAL

12-1 Uniform Construction Code Enforcing Agency.

12-1.1 *Established.*

a. There is hereby established in the borough a State uniform construction code enforcing agency to be known as Little Silver Uniform Construction Code Enforcing Agency consisting of a construction official, building subcode official, plumbing subcode official, electrical subcode official, fire protection subcode official, and such other subcode officials for such additional subcodes as the Commissioner of the Department of Community Affairs, State of New Jersey shall hereafter adopt as part of the State Uniform Construction Code. The construction official shall be the chief administrator of the enforcing agency.

b. Each official position created in subsection a. hereof shall be filled by a person qualified for such position pursuant to P.L. 1975, C 217 as amended and N.J.A.C. 5:23; provided that, in lieu of any particular subcode official, an onsite inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. More than one such official position may be held by the same person; provided that such person is qualified pursuant to P.L. 1975, C.217 and N.J.A.C. 5:23 to hold each such position.

c. The public shall have the right to do business with the enforcing agency at one office location except for emergencies, and unforeseen or unavoidable circumstances.

12-1.2 *Fees.*

a. The fee for a construction permit shall be the sum of the subcode fees listed in "1" through "3" hereof and shall be paid before the permit is issued.

1. The building subcode fee shall be:

(a) For new construction, \$.007 per cubic foot of building or structure volume; provided that the minimum fee shall be five (\$5.00) dollars plus the amount set forth in subsection 12-1.4.

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(b) For renovations, alterations and repairs, ten (\$10.00) dollars for the first one thousand (\$1,000.00) dollars and five (\$5.00) dollars for each additional one thousand (\$1,000.00) dollars or fractions thereof of estimated cost of the work, provided that the minimum fee shall be ten (\$10.00) dollars plus the fee set forth in subsection 12-1.4.

(c) For additions, \$.007 per cubic foot of building or structure volume for the added portion; provided that the minimum fee shall be thirty (\$30.00) dollars.

(d) For combinations of renovations and additions, the sum of the fees computed separately as renovations and additions.

2. The plumbing subcode fee shall be four (\$4.00) dollars per plumbing fixture, device, and plumbing stack to be installed; provided that the minimum fee shall be seventeen (\$17.00) dollars; and provided further that the fee shall be in the amount of twenty-five (\$25.00) dollars per special device, for grease traps, oil separators and water cooled air conditioning units.

3. The electrical subcode fees shall be as follows:

(a) For from one to 25 switches, receptacles, electrical outlets and lighting fixtures, the fee shall be in the amount of twelve dollars and fifty (\$12.50) cents.

(1) For each 25 switches, receptacles, electrical outlets and lighting fixtures, or fraction thereof in addition to this, the fee shall be in the amount of one dollar and fifty (\$1.50) cents.

(2) For the purposes of computing this fee, receptacles or fixtures shall include lighting outlets, wall switches, fluorescent fixtures, convenience receptacles or similar fixtures.

(b) For each item of heating equipment, cooking equipment or similar device for a single unit of 20 k.w. or less, six (\$6.00) dollars.

(1) For each additional unit or outlet of 20 k.w. or less, one dollar and fifty (\$1.50) cents.

(c) For each motor, air conditioner, generator, transformer or similar electrical device, including electrical furnaces and welders as to each single

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unit or group not exceeding five motors, whose total does not exceed one horsepower or one k.w. or one k.v.a., seven dollars and fifty (\$7.50) cents.

(1) For each motor or device from one horsepower to 20 horsepower, k.w. or k.v.a., each seven dollars and fifty (\$7.50) cents.

(2) For each motor or device over 20 horsepower up to 40 horsepower, k.w. or k.v.a., each seven dollars and fifty (\$7.50) cents.

(3) For each motor or device over 40 horsepower, up to 75 horsepower, k.w. or k.v.a., each ten (\$10.00) dollars.

(4) For each motor or device over 75 horsepower, k.w. or k.v.a., each twelve dollars and fifty (\$12.50) cents.

(d) For each swimming pool as to its complete installation, twenty (\$20.00) dollars.

(e) For each service panel of 100 amperes capacity or less and up to ten outlets the fee shall be twelve dollars and fifty (\$12.50) cents.

(1) For each service panel of greater than 100 amperes up to 225 amperes and ten outlets, fifteen (\$15.00) dollars.

(2) For each service panel of greater than 225 amperes up to 400 amperes and ten outlets, twenty (\$20.00) dollars.

(3) For each service panel of greater than 400 amperes up to 600 amperes, twenty-five (\$25.00) dollars.

(4) For each service panel of greater than 600 amperes, forty (\$40.00) dollars.

(5) For all meters over five, two (\$2.00) dollars per meter.

(6) For the purpose of computing this fee, the term service panel shall include service conductors, feeders, switches, switchboards and panelboards.

(f) For each primary transformer, vault, enclosure or substation not over 200 k.v.a., twenty (\$20.00) dollars.

(1) For each primary transformer, vault, enclosure or substation over 200 k.v.a. and up to 500 k.v.a., twenty-five (\$25.00) dollars.

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(2) For each primary transformer, vault, enclosure or substation over 500 k.v.a., thirty (\$30.00) dollars.

(3) For purposes of computing this fee, the above applies to each bank of primary transformers.

(4) For each additional inspection necessitated for reported correction of defects found, original inspection 50 percent of the original charge but not to exceed fifteen (\$15.00) dollars.

(g) The minimum electrical subcode fee shall be ten (\$10.00) dollars.

(h) In the event the inspection to be performed does not fall within any of the above enumerated schedule of fees, the applicant shall apply to the electrical subcode official for a special fee to be approved by the construction code official.

b. The fee for plan review shall be 25 percent of the amount to be charged for the construction permit and shall be paid before the plans are reviewed. The amount paid for this fee shall be credited toward the amount of the fee to be charged for the construction permit.

c. The fee for a permit for the demolition of a building or structure shall be ten (\$10.00) dollars per one thousand (\$1,000.00) dollars of the estimated cost of the demolition provided that the minimum fee shall be ten (\$10.00) dollars.

d. The fee for a permit for the removal of a building or structure from one lot to another or to a new location on the same lot shall be fifty (\$50.00) dollars of the sum of the estimated costs for moving, for new foundations and for placement in a completed condition in the new location; provided that the minimum fee shall be fifty (\$50.00) dollars.

e. The fee for a permit to construct a sign shall be a minimum of ten (\$10.00) dollars.

f. Certificates of occupancy.

(1) The fee for a certificate of continued occupancy shall be ten (\$10.00) dollars.

(2) The fee for a certificate of occupancy granted pursuant to a change of use shall be ten (\$10.00) dollars.

(3) The fee for a multiple certificate of occupancy shall be ten (\$10.00) dollars per unit.

(4) The fee for a certificate of occupancy for new construction shall be ten (\$10.00) dollars.

(5) The fee for a certificate of occupancy for new occupancy shall be ten (\$10.00) dollars.

g. The fee for a permit for installation of an elevator shall be ten (\$10.00) dollars for the first one thousand (\$1,000.00) dollars and five (\$5.00) dollars for each additional one thousand (\$1,000.00) dollars or fraction thereof of estimated cost of the work.

h. The fee for inspection of an elevator shall be twenty-five (\$25.00) dollars.

i. The fees to be charged for a certificate of occupancy shall be paid before a certificate is issued and shall be in addition to the construction permit fee.

j. A construction permit for new construction, renovation, additions, alterations or repairs shall not be required where the estimated cost of the work does not exceed two hundred fifty (\$250.00) dollars.

12-1.3 *Reports.* The construction official shall, with the advice of the subcode officials, prepare and submit to the mayor and council of the borough biannually, a report recommending a fee schedule based on the operating expenses of the agency; and any other expenses of the borough fairly attributable to the enforcement of the State Uniform Construction Code Act.

12-1.4 *Surcharges.*

a. In order to provide for the training, certification, and technical support programs required by the Uniform Construction Code Act and The Regulations, the enforcing agency shall collect in addition to the fees specified above, a surcharge fee of \$.0006 per cubic foot of volume of new construction. The surcharge fee shall be remitted to the Bureau of Housing Inspection, Department of Community Affairs, on a quarterly basis for the fiscal quarter ending September 30, December 31, March 31, and June 30, and not later than one month next succeeding the end of the quarter for which it is due. In the fiscal year in which The Regulations first become effective, the fee shall be collected and remitted for the third and fourth quarters only.

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b. The enforcing agency shall report annually at the end of each fiscal year to the Bureau of Housing Inspection, and not later than July 31, the total amount of the surcharge fee collected in the fiscal year. In the fiscal year in which The Regulations first become effective, the report shall be for the third and fourth quarters only.

12-1.5 *Fire Limits.* The following fire limits are established pursuant to N.J.A.C. 5:23: All of that area in the borough situate, lying and being within the B-1 and B-2 Business Zones, P-1 and P-2 Professional Zones, and I-1 and I-2 Commercial-Industrial Zones as set forth in Chapter XVII, Zoning, is hereby determined to be within the fire limits of the Borough of Little Silver.

12-1.6 *Certificates of Occupancy.*

a. No building or structure except an owner-occupied residence, shall be occupied or used, in whole or in part, and no building, except an owner-occupied residence, can be reoccupied after it has once become vacant until a certificate of occupancy shall have been issued by the building official and posted on the premises stating the purpose for which the building may be used in its several parts, the maximum permissible live loads on the several floors, the number of occupants that may be accommodated in the building or structure, in case such number is limited by a provision of law or by the permit and all special stipulations of the permit, if any. A reinspection shall not be required if the premises becomes vacant and reoccupied within three months after a certificate of occupancy is issued; after three months, reinspection is required.

b. No certificate of occupancy shall be issued for commercial, school, multiple dwelling or industrial building until approval is obtained by the applicant of the fire protection subcode official, board of health, and the plumbing subcode official, as well as the construction official.

c. The borough construction official shall have the authority and responsibility for the issuance of all certificates of occupancy.

d. In the absence of the construction official, the building subcode official or the borough engineer or in cases prescribed by the building inspector, any other inspection personnel of the Little Silver Uniform Construction Code Enforcing Agency may act.

e. A provisional or conditional certificate of occupancy may be issued provided that proper security is received which is approved by both the mayor and council and the borough engineer. Such issuance shall not give the party any rights nor excuse said party from obtaining all necessary permits, and such conditional certificates shall automatically expire upon

the next meeting of the mayor and council unless the mayor and council approves and extends the time of the provisional or conditional certificate until the next meeting of the mayor and council.

12-2 Sewer Connections.

12-2.1 *Definitions.* As used in this section:

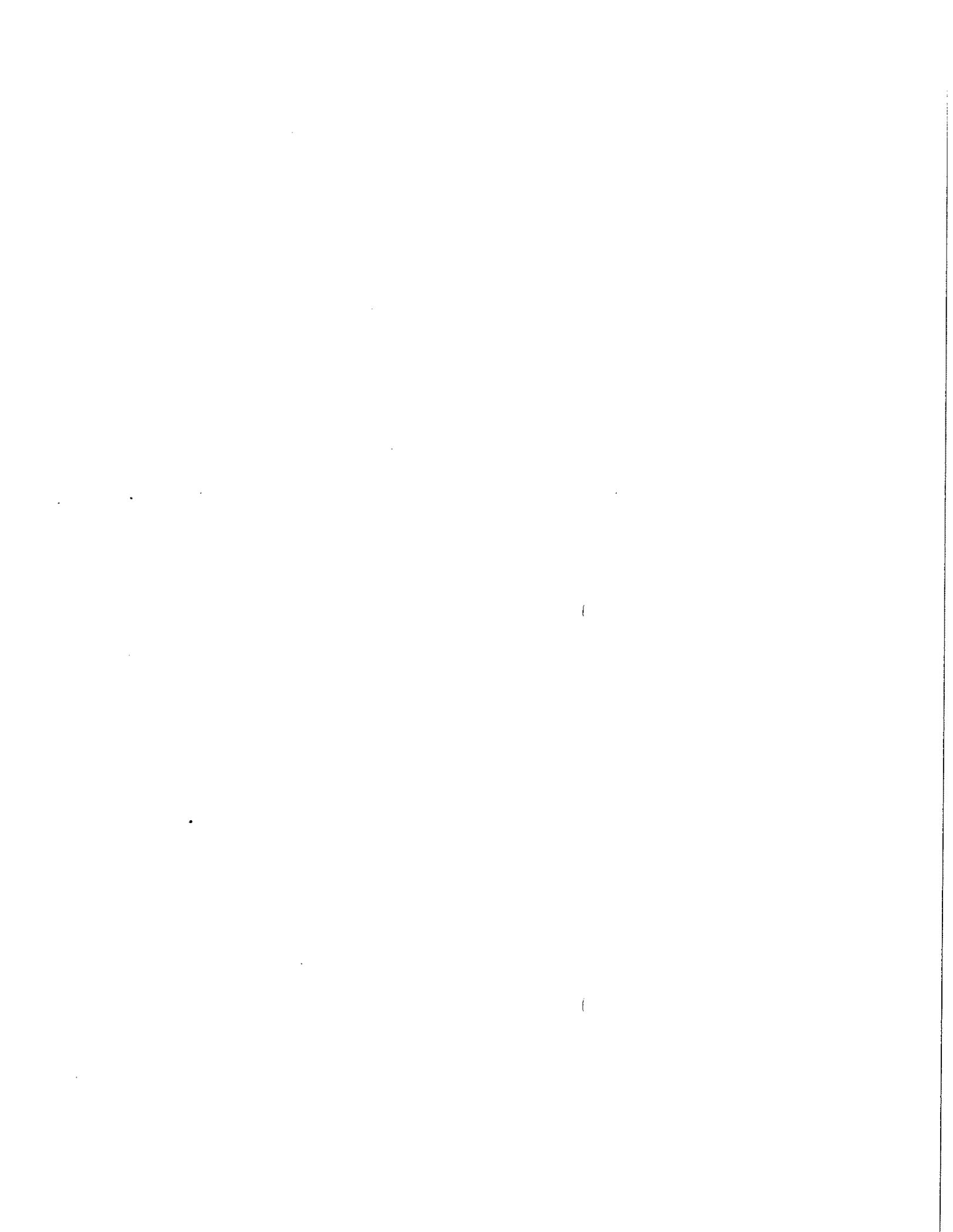
a. "Building" shall mean any building or structure heretofore or hereafter constructed and designed or used for dwelling or other use or occupancy by persons, either temporary or permanent.

b. "Sewer" shall mean any sewer or main designed or used for collection or disposal of sanitary sewage within the borough.

c. "Authority" shall mean the Northeast Monmouth County Regional Sewerage Authority.

d. "Connection date" shall mean the 90th day following the service of a notice from the borough that a sewer is available to serve a building, except that in the case of a building completed subsequently to the availability of a sewer to the premises on which a building is located, "connection date" shall mean the date of the initial occupancy of the building or the date of the issuance of a certificate of occupancy, whichever of these dates shall be the earlier.

e. For the purpose of this section, a property shall be deemed to front on the system if any of its boundaries abut a street or easement at a point opposite a sewer in such street or easement which is part of a sewer of the



authority or where a building is located upon a street or easement in which a sewer is now or hereafter constructed.

12-2.2 *Inspection.* Every connection required by this section shall be made in a manner to discharge into the sewer, all waste and sanitary sewage originating in the building in accordance with and subject to the rules and regulations as well as sewer system standards adopted by the authority, which connection shall be subject to the right of inspection and approval by the authority. All connection charges, service charges and inspection fees imposed by the authority under its rules and regulations or rate schedules, adopted by the authority shall be paid promptly when due.

12-2.3 *Connection Required.* The owner of each building located on property which fronts upon a sewer or is located upon any street in the borough in which a sewer is now or hereafter constructed shall connect such building and property with the sewer prior to the connection date for the purpose of delivering sewage from each building into the sewer. The connection shall be subject to and in conformity with the rules and regulations and sewer system standards adopted by the authority regulating and providing for the construction of such connections and providing for the improvement, maintenance and repair of such connections and prescribing the kind of materials to be used in the original connection and in improving and repairing the same and the method of doing the same. Unless a toilet is already installed therein, every owner of such building shall install at least one and connect such building and every toilet with the sewer.

12-2.4 *Notice to Connect.* The borough clerk shall mail a notice to connect on a form furnished by the authority to every owner of a building and property located within the area in the borough in which a sewer has been installed and is ready to receive sewage. The borough clerk shall mail such notice to connect as soon as possible following receipt of written notification from the authority, describing the area within which such sewer is available to receive sewage. The clerk shall forward a list of the names and addresses of the owners upon whom the notice to connect has been served to the authority.

12-2.5 *Failure to Connect.* If the owner of any property affected by this section shall neglect, after notice given as provided in R.S. 40:63-52 to R.S. 40:63-64, inclusive, to make any such sewer connection or installation of toilet, the borough may cause such connection or installation to be made under its direction and supervision or award one or more contracts for the making of such improvements, and such sewer

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connection or installation charge shall bear interest and be a first and paramount lien against the respective property or properties so connected with the sewer to the same extent as assessments for local improvements, and shall be collected and enforced in the same manner, all as provided in R.S. 40:63-54.

12-3 Property Maintenance Code.

12-3.1 *Title.* This section shall be known as the Property Maintenance Code of the Borough of Little Silver and may be referred to herein as the code.

12-3.2 *Findings and Declaration of Policy.* It is hereby found and declared that there exists in the borough premises which are or may become unfit for human habitation or occupancy, or use, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitation facilities, or due to other conditions rendering such premises or part thereof, unsafe or insanitary, or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of the borough and persons upon or having access to the premises. It is further found and declared that by reason of lack of maintenance and progressive deterioration, the condition of certain premises has the further effect of creating blighting conditions, and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and neighborhood and property values thereby maintained, the desirability and amenities of premises and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

12-3.3 *Purposes.* The purpose of this section is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and condition of premises situated in the borough, used or intended to be used or designed to be used, in whole or in part, for commercial, business, industrial or any other nonresidential occupancy; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make such premises fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners and operators, and distinct and separate responsibilities and duties upon occupants; to prevent blighting

conditions and deterioration of property values; to authorize and establish procedures for the inspection of such premises; to fix penalties for the violations of this code; to provide for the right of access across adjoining premises to permit repairs; and to provide for the repair, demolition or vacation or occupancy or use. The code is hereby declared to be remedial and essential for the public interest and it is intended that it be liberally construed to effectuate the purposes as stated herein.

12-3.4 *Applicability.*

a. *Compliance with Code.* Buildings and land affected by the code, each and every lot in a commercial or business zone and each and every building and the premises on which it is situated in the borough, used or intended to be used or designed to be used, in whole or in part, for commercial, business, industrial or any other nonresidential occupancy shall comply with the provisions of the code, whether or not any such building shall have been constructed, altered or repaired before or after the adoption of the code, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of any such building or premises for the construction, alteration or repair of any such building or for the installation or repair of equipment or facilities therein or thereon prior to May 20, 1968. The code establishes minimum standards for initial and continued occupancy and the use of all such buildings and premises and does not replace, modify or lessen standards otherwise established for the construction, repair, alteration or use of such buildings and premises, equipment or facilities contained therein or thereon.

b. *Mixed Occupancy.* Where there is mixed occupancy of such buildings and premises, the residential and nonresidential uses shall be regulated by and be subject to the applicable provisions of both this section and of all other ordinances of the borough.

c. *Higher Standards to Prevail in Case of Conflict with Ordinances or Laws.* In any case where the provisions of this section impose a higher standard than that set forth in any ordinance of the borough or laws of the State of New Jersey applicable then the standards as set forth herein shall prevail, but if the provisions of this section impose a lesser standard than such other ordinance of the borough or law of the State of New Jersey, than the higher standard contained in such other ordinance or law shall prevail.

d. *Issuance and Renewal of Other Permits and Licenses.* All licenses and permits relating to such buildings and premises which may be issued or renewed pursuant to any ordinance of the borough may be issued or renewed only upon compliance with the code as well as compliance with the ordinances under which such licenses and permits may be granted or renewed.

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e. *Enforcement and Compliance with Other Ordinances.* Compliance with this section shall not constitute a defense against the violation of any provision of any other ordinance of the borough applicable to any building or premises, nor shall compliance with any provision of this section relieve any owner, operator or occupant from complying with any such other provision, nor relieve any official of the borough from enforcing any such other provision.

12-3.5 *Responsibility of Owner, Operator and Occupant Independent of Each Other.*

a. *Owner and Operator.* Owners and operators shall have all the duties and responsibilities described in subsections 12-3.8 to 12-3.12 and regulations promulgated pursuant thereto; and no owner or operator shall be relieved from such duties or responsibilities nor be entitled to defend against any charge of violation by reason of the fact that the other of or the occupant is also responsible.

b. *Occupant.* Occupants shall have all the duties and responsibilities as prescribed in this section and all regulations promulgated pursuant thereto; and the occupant shall not be relieved of any such duties or responsibilities nor be entitled to defend against any charge of violation thereof by reason of the fact that the owner or operator or both is or are also responsible.

c. *Contract Not to Alter Responsibilities.* Unless expressly provided to the contrary to this section, the respective duties and responsibilities imposed hereunder on the owner, operator and occupant shall not be altered or affected by any agreement or contract to which one or more of them is a party.

12-3.6 *Standards.* The provisions of this section shall constitute the standards to guide the public officer and his agents in determining the fitness of premises for human habitation, use and occupancy; and in determining whether premises are being maintained in such condition as to not constitute a blighting effect upon neighboring properties nor an element leading to a progressive deterioration and downgrading neighborhood properties with an accompanying diminution of property values.

12-3.7 *Definitions.* As used in this section:

a. "Bathroom" shall mean any enclosed space which contains one or more of the following: bathtub, shower, water closet, lavatory, water closet compartment, washbowl, sink or fixtures serving similar purposes.

b. "Building" shall mean any building or structure, or part thereof, whether used for human habitation or otherwise, and includes any out-buildings and appurtenances.

c. "Deterioration" shall mean the condition of a building, or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect, lack of maintenance or excessive wear.

d. "Exposed to public view" shall mean any premises, or part thereof, which may be lawfully viewed by the public, from a sidewalk, street, alleyway, parking lot or from any adjoining, or neighboring, premises.

e. "Exterior of the premises" shall mean any part of the premises not occupied by any building thereon; any open space on the outside of any building; or any part of any building which is exposed to the elements.

f. "Extermination" shall mean the control and elimination of insects, rodents, and vermin by eliminating their harborage places; or by removing or making inaccessible material that may serve as their food; or by poisoning, spraying, fumigating, trapping or other approved means of pest elimination.

g. "Garbage" shall mean the animal and vegetable and other organic waste resulting from the handling, preparation, cooking and consumption of food or other products.

h. "Infestation" shall mean the presence, on or within a premises, of any insects, rodents or other pests.

i. "Mixed occupancy" shall mean any building containing one or more dwelling units, rooming units, or hotel or motel accommodations and also having a portion thereof devoted to non-residential uses.

ii. "Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

j. "Nuisance" shall mean:

1. Any public nuisance known at public law or in law or equity jurisprudence, or as provided by the statutes of the State of New Jersey, or the ordinances of the borough.

2. Any inadequately protected well, shaft, basement, excavation, abandoned motor vehicle, structurally unsound fence or building, lumber, trash, debris, or vegetation such as poison ivy, oak or sumac, or other condition which is or may be detrimental to the safety or health of persons.

3. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.

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3. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.

4. Whatever renders air, food or drink or water courses situated in or bounding the borough unwholesome or detrimental to the health of human beings.

5. Fire hazards.

k. "Occupancy unit" shall mean any room or part thereof forming a single usable unit used or intended to be used, or designed to be used, for nonresidential purposes, and located within a building used or intended to be used in whole or in part, for commercial business, industrial or other nonresidential occupancy.

l. "Occupant" shall mean any person including the owner, in actual possession of, and using an entire building or an occupancy unit in a building.

m. "Operator" shall mean any person who has charge, care or control of a premises, or part thereof, whether with or without the knowledge and consent of the owner.

n. "Owner" shall mean the holder or holders of the title to premises in fee simple.

o. "Parties in interest" shall mean all individuals who have interests of record in a building and any who are in actual possession.

p. "Person" shall be given the same meaning as defined in New Jersey Statutes Annotated 1:1-2.

q. "Premises" shall mean a lot, plot or parcel of land, whether or not the same has buildings situated thereon.

r. "Public officer" shall mean the person who is authorized by this section to exercise powers prescribed by this code.

s. "Refuse" shall mean all putrescible and nonputrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleaning, dead animals, abandoned automobiles and solid market and industrial wastes.

t. "Rubbish" shall mean and include all combustible and noncombustible waste material, except garbage.

u. "Structure" shall mean an assembly of materials forming a construction including, but not limited to, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, open sheds, bins, shelters, fences and display racks and signs.

v. "Translucent" shall mean the property of admitting the passage of light but diffusing it so that objects beyond it cannot be clearly distinguished.

w. "Water closet compartment" shall mean an enclosure containing a single water closet.

x. "Weathering" shall mean deterioration, decay or damage caused by exposure to the elements.

y. "Window" shall mean an opening in the wall or roof of a building for the admission of light which opening may be closed to the elements by casements or sashes containing glass or other transparent material.

z. "Window display area" shall mean that area of a building in proximity to the inner surface of a window which is designed or used for the viewing of the interior and the display of items representative of any goods or services pertaining to the business therein.

12-3.8 Maintenance of Exterior of the Premises. The exterior of the premises shall be kept free of litter and of all nuisances and hazards to the safety of persons having access to the premises, and free of unsanitary conditions; and any of the foregoing shall be promptly removed and abated; the word "Hazards" shall include but is not limited to the following:

a. **Natural Growth.** Dead and dying trees and other natural growth which by reason of rotting or deteriorating conditions, lack of landscaping, maintenance or storm damage, are or may be unsightly and may, unless corrected, create a blighted condition, or be dangerous to persons or property in the vicinity thereof. Trees shall be kept pruned and trimmed and plant beds, sidewalks, curbs and pavements shall be kept free of weeds and other obnoxious growth by the use of herbicides or root removal to prevent such conditions.

b. **Overhangings and Ground Surface Conditions.** Loose, overhanging and projecting object and accumulations of ice and snow which by reason of location above ground level constitute dangers to persons in the vicinity thereof. Holes, excavations, breaks, projections, obstructions and excretion of pets or other animals on paths, sidewalks, walks, driveways, parking lots and parking areas, and other parts of the exterior of the premises which are accessible to and used by persons having access to such premises.

c. Refuse, trash and other debris.

d. (Reserved).

e. **Recurring Accumulation of Storm Water.** Adequate run-off drains shall be provided and maintained to eliminate recurrent accumulations of storm water.

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f. Sources of Infestation.

g. Foundation Walls. Foundation walls shall be kept structurally sound, free from defects and damage, and capable of bearing imposed loads safely.

h. Chimneys and Flue and Vent Attachments Thereto. Chimneys and flue and vent attachments thereto shall be maintained structurally sound, free from defects and so maintained as to capably perform at all times the functions for which they were designed and constructed. Chimneys, flues, gas vents and other draft producing equipment, shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke tight, and capable of withstanding the action of flue gases.

i. Exterior Porches, Landings, Balconies, Stairs and Fire Escapes. Exterior porches, landings, balconies, stairs and fire escapes shall be provided with bannisters or railings properly designed and maintained structurally sound, in good repair, well painted or otherwise provided with a prospective treatment to prevent deterioration, and free from defects.

12-3.9 Reserved by Ord. No. 166-81.

12-3.9A *Appearance of Exterior of the Premises and Window Display Areas.* The exterior of the premises shall be maintained so that the appearance shall reflect a level of maintenance in keeping with the standards of the neighborhood or such higher standards as may be adopted by the borough and such that the appearance shall not constitute a blighting effect upon neighboring properties nor an element leading to a progressive deterioration and downgrading of neighboring properties with an accompanying diminution of property values including the following:

a. *Landscaping.* The landscaping of premises shall be maintained in an orderly state with lawns, plantings, ground cover, trees and bushes regularly watered and trimmed and free from becoming overgrown, littered and unsightly where such would constitute a blighting effect, depreciating adjoining and nearby property. All dead plant materials shall be removed or replaced (if such plantings are required under the Land Use and Development Regulations Ordinance, they shall be replaced only). Open areas shall be graded evenly to eliminate holes, depressions, gullies, mounds, accumulations of debris or other unsightly or unsafe conditions.

b. *Signs and Billboards.* All permanent signs and billboards exposed to public view permitted by the zoning chapter and regulated by the building code or other regulations or as a lawful nonconforming use shall be maintained in good repair. Any sign or billboard which has weathered excessively or faded or the paint on which has excessively peeled or cracked

shall, with its supporting members, be removed forthwith or put into a state of good repair. All non-operative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.

c. *Windows and Window Display Areas.* All windows exposed to public view shall be kept clean and free of marks and foreign substances. Except when necessary in the course of changing displays, no storage of materials, stock or inventory shall be permitted in window display areas ordinarily exposed to public view unless such areas are first screened by drapes, venetian blinds or other means of making the windows translucent. All screening of interiors shall be maintained in a clean and attractive manner and in good state of repair.

d. *Repair and Painting of Exteriors of Buildings.* All store fronts and the exteriors of all buildings, shall be kept in good repair, reasonably free of peeling or cracked paint, rust or other unsightly conditions, painted where required or otherwise provided with protective treatment sufficient to prevent deterioration and shall not constitute a safety hazard or nuisance. In the event repairs to a store front become necessary, such repairs shall be made in harmony with the original design with the same materials or materials of appearance similar to those used in the construction of the store front in such a manner as to permanently repair the damaged area or areas.

e. *Outdoor Storage of Material.* No person shall store materials of any kind outdoors in any district, except for the construction of a structure to be erected on the premises, unless specifically permitted elsewhere in this chapter.

f. *Awnings and Marquees.* Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall be so maintained as not to constitute a nuisance or a safety hazard. In the event any such awning or marquee is not properly maintained in accordance with the foregoing, it shall, together with its supporting members, be removed. In the event any such awning or marquee is made of cloth, plastic, or of similar materials, the materials, where exposed to public view, shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing, or other deterioration. Nothing herein shall be construed to authorize any encroachment of an awning, marquee or its accompanying structural members on streets, sidewalks or other parts of the public domain.

g. *Scaffolding.* No temporary painting scaffold or other temporary equipment used for construction, repair or maintenance shall be permitted to remain in place beyond a period of three months after erection or placement without permission of the public officer.

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h. *Pavement and Curbing.* Potholes and other pavement failures within paved parking areas shall be repaired on a regular basis, but in no event shall potholes or pavement failures be left unrepaired for a period in excess of five days. If such potholes or pavement failures are hazardous to vehicles, they shall be appropriately barricaded and marked to warn motorists. Curbing, other pavement edging and sidewalks shall be maintained free of cracks and holes which would present a hazard to pedestrians or are unsightly. Unpaved or gravel parking and pedestrian areas shall be maintained and regularly regraded in a manner which will keep the area free of holes and other severe grade changes which would be hazardous to vehicular and pedestrian usage.

i. *Traffic Signs.* Paint striping, traffic control signs and markings, and all other signs and graphics shall be maintained in a condition whereby they can be clearly seen and are legible.

j. *Shopping Carts.* All areas of the site shall be kept free of debris and other materials. All users of shopping carts or similar items shall provide for the regular pickup of such shopping carts or similar items from parking areas and other portions of the site at least once every hour during their business hours. All shopping carts or similar items shall either be stored indoors or in a location adjacent to the building specifically set aside for such storage during nonbusiness hours. Shopping carts shall be marked with the name of the establishment, title and telephone number of person responsible for maintenance of the shopping carts, and a notice that they are not to be removed from the property on which the business is located. If shopping carts are removed from the property and abandoned, they shall be picked up by the business to which the cart belongs within 24 hours of notice from the borough. Failure to pick up such shopping carts within 24 hours of notice shall be a violation of this chapter, subject to the penalties prescribed herein.

k. *Refuse.* All refuse stored outdoors shall be kept within containers having lids, in a manner that the refuse is not visible to pedestrians or persons within vehicles on or off the site. Such containers shall not be located to interfere with vehicular or pedestrian circulation.

l. *Outdoor Lighting.* All outdoor lighting shall be maintained in a working condition.

12-3.10 *Structural Soundness and General Maintenance of Exterior.* The exterior of every building shall be maintained in good repair and all exterior surfaces shall be kept painted or otherwise provided with a protective treatment where necessary for purposes of preservation and appearance and free from broken glass, loose shingles or siding, crumbling masonry, excessively peeling paint or other conditions reflective of

deterioration or inadequate maintenance to the end that the building itself may be preserved, safety and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences.

12-3.11 *General Sanitation and Safety.*

a. *Floors.* Floors shall be maintained in a structurally sound condition capable of safely bearing imposed loads and shall be maintained at all times in a condition so as to be free of hazards.

b. *Bathrooms.* Bathroom and water closet compartment floors shall be surfaced with water resistant material and shall be kept in a dry, clean and sanitary condition at all times.

c. *Supporting Structural Members.* Supporting structural members shall be kept structurally sound, free from deterioration and capable of safely bearing imposed loads.

d. *Responsibility.* In buildings containing not more than four occupancy units, it shall be the responsibility of each of the occupants and, in buildings containing more than four occupancy units, it shall be the responsibility of the owner and operator to furnish such receptacles as are needed for the proper storage of garbage and rubbish until removal and to provide for the periodic removal of all garbage and rubbish from the premises in accordance with the regulations and ordinances of the borough.

e. *Storage.* Storage bins, rooms and areas shall not be used for the storage of accumulated garbage and rubbish unless:

1. Such garbage is stored in watertight receptacles of metal or other material approved by the public officer and provided with tight fitting covers.

2. Such rubbish is stored in nonleaking receptacles of metal or other material approved by the public officer:

3. Such storage bins, rooms and areas are of smooth, easily cleanable construction and are kept in a sanitary condition.

4. Such areas, if located outside of a building and visible from any public walk, street or public parking area, are shielded by a method approved by the public officer and constructed in compliance with the applicable provisions of the building code of the borough.

f. *Rubbish.* Rubbish and garbage shall be placed or kept on the property within the building located thereon or not nearer to the street line than the building line or nearer to the street line than the face of the

building, whichever distance from the street line is greater, except during any "clean-up week" proclaimed by the mayor and council.

g. Combustible Materials. Inflammable or combustible materials shall not be stored on the premises unless they are of a type approved for storage by regulation of the fire department and then only in such quantities and in such fireproof storage containers as may be prescribed by applicable fire department regulations.

h. Insect Extermination. Every occupant of a single occupancy unit in a building comprising a single occupancy unit shall be responsible for the extermination of any insects, rodents, or other pests on the premises; and each occupant of any occupancy unit in any building which has more than one occupancy unit shall be responsible for such extermination whenever his occupancy unit is the only one infested. Notwithstanding the foregoing provisions of this subparagraph whenever infestation is caused by failure of the owner or operator to maintain any such building in a reasonably pest-proof condition, extermination shall be the responsibility of the owner and operator. Whenever infestation exists in two or more of the occupancy units in any building or in the common parts of any building containing two or more occupancy units, extermination shall be the responsibility of the owner and operator.

12-3.12 *Utilities and Facilities.*

a. Electric Service Required. Every building shall be provided with electric service, where required, in accordance with the standards of the National Electrical Code, as amended.

b. Water Closet Fixtures. Every bathroom and water closet compartment shall be provided with permanently installed and operating artificial lighting fixtures with switches and wall plates so located and maintained that there is no danger of electrical shock from a simultaneous contact with a water supply fixture.

c. Posting of Maximum Fuse Sizes. Maximum fuse sizes as specified by the National Electrical Code, as amended, shall be posted conspicuously on the inside cover of all fuse boxes and no fuse shall be installed in excess of the stated maximum. Owners and operators shall not be held responsible for violations in fuse sizes where the correct maximum size is stated and the fuse box is located within any part of the building which is the exclusive possession of an occupant other than the owner.

12-3.13 *Duties and Responsibilities of Occupants.*

a. Report of Violation. Upon discovery by an occupant of any condition on the premises which constitutes a violation of this code, the

occupant shall report the same to the public officer responsible for enforcement of this code.

b. *Condition of Premises.* All parts of the premises under the control of an occupant shall be kept in a clean, sanitary and safe condition by the occupant and the occupant shall refrain from performing any acts which would render other parts of the premises unclean, unsanitary or unsafe, or which would prevent the owner or operator from performing any duty required hereunder.

12-3.14 *Administrative and Enforcement Provisions.*

a. *Code Enforcement Officer to be Public Officer.* The code enforcement officer of the borough is hereby designated as the public officer to exercise the powers prescribed by this code. He may appoint or designate such other public officials or employees of the borough to perform such of his functions and powers under this code as he deems necessary for the enforcement of this code including the making of inspections and holding of hearings. He may prosecute any violations of subsections 12-3.8 to 12-3.12, both inclusive, of this code and any regulations promulgated pursuant thereto, in the Municipal Court of the Borough of Little Silver.

b. *Inspection of Premises and Prosecution of Violations.* All premises within the borough covered by this code shall be subject to inspection by the public officer to determine the condition in order that he may perform his duty of safeguarding the health and safety of the persons occupying the same and of the general public. For the purpose of making such inspections, the public officer is hereby authorized to enter, examine and survey at all reasonable times all such premises; provided, however, that such entries are made in such manner as to cause the least possible inconvenience to the persons in possession. The owner, operator and persons occupying the same shall give the public officer free access to the same at all reasonable times for the purpose of such inspection. Every person occupying such premises shall give the owner and operator access to that portion of the premises occupied by or in the possession of such person at all reasonable times for the purpose of making such repairs, alterations or corrections as are necessary to effect compliance with the provisions of this code or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this code.

Should the public officer or his designee, determine that a violation of subsections 12-3.8 to 12-3.12, both inclusive, of this code, he shall cause a complaint to be filed, without prior notice to the owner or occupant of the premises, charging either the owner or the occupant or both the owner and the occupant with violation.

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The penalty for violation of any provision of this chapter shall be as set forth in section 5-13 of these ordinances. Each and every day in which a violation exists shall constitute a separate violation.

c. *Determination of Unfitness for Use of Occupancy.* For the purposes of this section the public officer may determine that a building is unfit for human habitation, use or occupancy if he finds that conditions exist in such building which are dangerous or injurious to the health or safety of

persons occupying or using the same or neighboring buildings or other residents of the borough. Such conditions may include the following: defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitation facilities; dilapidation; deterioration; disrepair; structural defects; uncleanliness; or failure to comply with the standards established by subsection 12-3.6 of this code.

d. *Charges and Hearing.* Whenever a petition is filed with the public officer by a public authority (as defined in R.S. 40:48-2.4) or by at least five residents of the borough charging that any building is unfit for human habitation or occupancy or use, or whenever it appears to the public officer that any building is unfit for human habitation or occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his designated agent at a place fixed not less than ten days nor more than 30 days after the serving of the complaint; and that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts of the State of New Jersey shall not be controlling in hearings before the public officer.

e. *Findings of Fact and Order.* If, after the notice and hearing provided for in subparagraph d, the public officer determines that the building under consideration is unfit for human habitation or occupancy or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order requiring:

1. The repair, alteration or improvement of the building to be made by the owner, within a reasonable time, which shall be set forth in the order or at the option of the owner to vacate or to have the building vacated and closed within the time set forth in the order; and

2. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve the building within the time specified in the order, the owner shall remove or demolish the building within a reasonable time as specified in the order of removal.

f. *Failure of Owner to Comply with Order to Repair or Vacate.* If the owner fails to comply with an order requiring him to repair, alter or improve or, at his option, to vacate and close the building, the public officer may cause such building to be repaired, altered or improved, or to

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be vacated and closed; and may cause to be posted on the main entrance of any building so closed, a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful."

g. Failure of Owner to Comply with Order to Remove or Demolish. If the owner fails to comply with an order to remove or demolish the building, the public officer may cause such building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for, and receipt of, bids therefor.

h. Lien of Municipality. The amount of:

1. The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges, incurred in the course of any proceeding taken under this code determined in favor of the borough and

2. The cost of any such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, undertaken pursuant to subparagraphs f and g, or the amount of the balance remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred.

If the building is removed or demolished by the public officer, he shall see the materials of such building. There shall be credited against the cost of the removal or demolition the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no credits or if the sum total of such costs exceeds the total of credits, a detailed statement, called the municipal lien certificate of the aforesaid costs and the amount so due, shall be filed by the public officer with the municipal tax assessor of the borough and a copy shall be forwarded by the public officer to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited with the Clerk of the Superior Court, by the public officer, and shall be secured in such manner as may be directed by the court and shall be disbursed according to the order or judgment of the court to the persons found to be entitled thereto by final order or judgment of the court; provided, however, that nothing contained in this section shall be constructed to limit or impair in any way the power of the borough to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. Any owner or party in interest may, within 60 days from the date of the filing of the municipal lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

i. *Certificate of Necessity.*

1. *Who May Apply.* Where any owner, operator or occupant is required to make repairs or otherwise improve his property and is unable to comply with this code without having a right of access to the premises through or across adjoining premises not owned by him or under his control, and where right of access has been refused such person required to make such repair, or where the person empowered to grant such access cannot be found or located, then upon the filing of an affidavit by such person with the public officer, setting forth the facts and applying for a certificate of necessity, the public officer shall serve written notice of a hearing on the application upon the applicant for such certificate and upon the owner or person empowered to grant such access. The notice of hearing shall state the matters to be considered at the hearing and shall be served in the manner prescribed for the service of complaints and orders by R.S. 40:43-2.7, except that the public officer shall not be required to record or lodge a copy of such notice with the County of Monmouth. At least ten days' notice of such hearing shall be given where the address of the owner or person empowered to grant such access is known. If such address is unknown or cannot be ascertained by the public officer in the exercise of reasonable diligence, at least 30 days' notice shall be given, calculated from the date of the first newspaper publication.

2. *Hearing.* On the day fixed for hearing, the public officer shall provide opportunity for the owner or person empowered to grant such access to state why access should not be granted.

3. *Issuance of Certificate; Conditions.* If the public officer determines that such access is necessary to accomplish or complete repairs or improvements necessary for compliance with the code, then the public officer shall issue a certificate of necessity granting and ordering access and setting forth therein the person to whom the certificate shall apply, such conditions as shall be necessary to protect adjoining property, reasonable time limits during which such certificate shall operate, precautions to be taken to avoid damage and, where the public officer deems proper, that a bond be procured at the expense of the person seeking such access to secure such adjoining property owner against damage to persons or property arising out of such right of access. The amount set for the bond shall take into consideration the extent, nature and duration of the repairs and improvements, their proximity to the premises over which access has been sought and the potential risk of damage. The bond, if required, shall be filed with the public officer.

4. *Refusal to Comply with Certificate.* Any refusal to comply with a certificate issued hereunder, or any interference with the purpose for

which a certificate is issued, shall be a violation of this code, and, in addition to the penalties provided, the public officer may upon affidavit, setting forth the facts, apply to the municipal judge of the borough for a warrant authorizing access and, if the municipal judge is satisfied as to the matters set forth in the affidavit, he shall authorize the issuance of a warrant permitting access.

j. *Service Oaths; Rules and Regulations.* Complaints, orders and certificates of necessity issued by the public officer shall be served and recorded or lodged for record in the manner prescribed by R.S. 40:48-2.7.

The public officer is hereby authorized and empowered to exercise such powers as may be necessary or convenient to carry out the purposes and provisions of this section including but not limited to the following in addition to others herein granted: to administer oaths, affirmations examine witnesses and receive evidence, and, to make and adopt such written rules and regulations as he may deem necessary, and the mayor and council approves by resolution for the proper enforcement of the provisions of this section; provided, however, that such rules and regulations shall not be in conflict with the provisions of this section, nor in anywise alter, amend, add to or supersede any of the provisions. The public officer shall file a certified copy of all such rules and regulations in his office and in the office of the borough clerk.

k. *Annual Review of Code Provisions and Operations.* The public officer shall in the month of December of each year review with the fire chief, health officer, borough engineer and borough attorney the procedure and operation of this section and report to the borough council on or before January 1:

1. Any recommended amendments, additions or modifications of the provisions of this section consonant with the field experience of the personnel charged with enforcement.

2. A summary of the enforcement experiences indicating number of violations abated, number of cases processed in the municipal court, number of inspections made and such other and further pertinent information as will provide the mayor and council with an annual account of the maintenance of the standards required by this section.

3. Any further recommendations as to how this section and the procedures and operations thereunder may be improved.

12-3.15 *Regulate Construction and Repair of Sidewalks, Curbs and Driveways from Curbs to Sidewalk.*

a. No person, persons, company, firm, partnership or corporation shall construct or repair any sidewalk, curb or driveway in a commercial or business zone without first obtaining a written permit therefor from the borough clerk.

b. Applications shall be obtained from the borough clerk and filed in triplicate. The application shall contain a clear and definite description of the location of the work, together with a sketch showing the proposed sidewalk, curb and/or driveway, and shall be accompanied by an application fee of two (\$2.00) dollars, plus the inspection fee required under paragraph f of this subsection.

c. No person shall lower the curb or change the grade of a sidewalk for the purpose of providing a driveway across such sidewalk without first obtaining a permit therefor from the borough clerk, as hereinabove set forth.

d. All sidewalks, curbs and driveways shall be built to lines and grades first approved by the borough engineer. In no event shall a driveway opening in the curb line exceed 25 feet in width.

e. Specifications for the construction or repair of sidewalks, curbs and driveways shall be as follows:

1. Sidewalks: 3,000 lb. concrete shall be used; four inches thick with a minimum width of four feet wide.

2. Curbs: 3,000 lb. concrete shall be used, with a minimum of 6 x 8 x 16 inch battered curb.

3. Driveways: from curb to sidewalk: 3,000 lb. concrete shall be used, 6 inches thick and shall extend from the back of the curb where it shall be a minimum of 16 feet to the property line or back of sidewalk where it shall be a minimum of 10 feet.

f. The fee payable by the applicant to the borough engineer for his services for inspecting the line and grade and the inspection of the complete work shall be twenty-five (\$.25) cents per lineal foot of sidewalk, curb or driveway, with a minimum charge of twenty-five (\$25.00) dollars. Any field survey required by the application shall be done by the borough engineer at the property owner's expense.

g. The owner or occupant of property abutting any such sidewalk, curb, or driveway shall maintain such sidewalk, curb or driveway at all times in a good and passable condition at a grade which will prevent water accumulating thereon, and shall replace any portion thereof

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which becomes broken and shall maintain the same so the joints thereof are even.

h. No person shall cause any injury or damage to any sidewalk, curb or driveway without causing the same to be repaired forthwith.

i. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed five hundred (\$500.00) dollars, or be imprisoned for a term not to exceed 90 days, or both.

(Amended 10/12/68)

12-3.16 *Residential Property Maintenance.*

a. *Purpose.* The purpose of this subsection is to protect the public health, safety and welfare, and the deterioration of residential property values, caused by the failure of property owners to maintain residential property in accordance with the minimum standards hereinafter established. This subsection is declared to be remedial and essential for the public interest, and it is intended that it is liberally construed to effectuate the purposes stated herein.

b. *Applicability.* All property zoned for residential use, or used for residential purposes, vacant or improved, shall comply with the provisions of this subsection.

c. *Responsibility.* The owner, tenant and/or occupant of property subject to this subsection shall be jointly and severally liable for compliance with its provisions, and such liability shall not be affected by any contract or agreement between the parties liable hereunder.

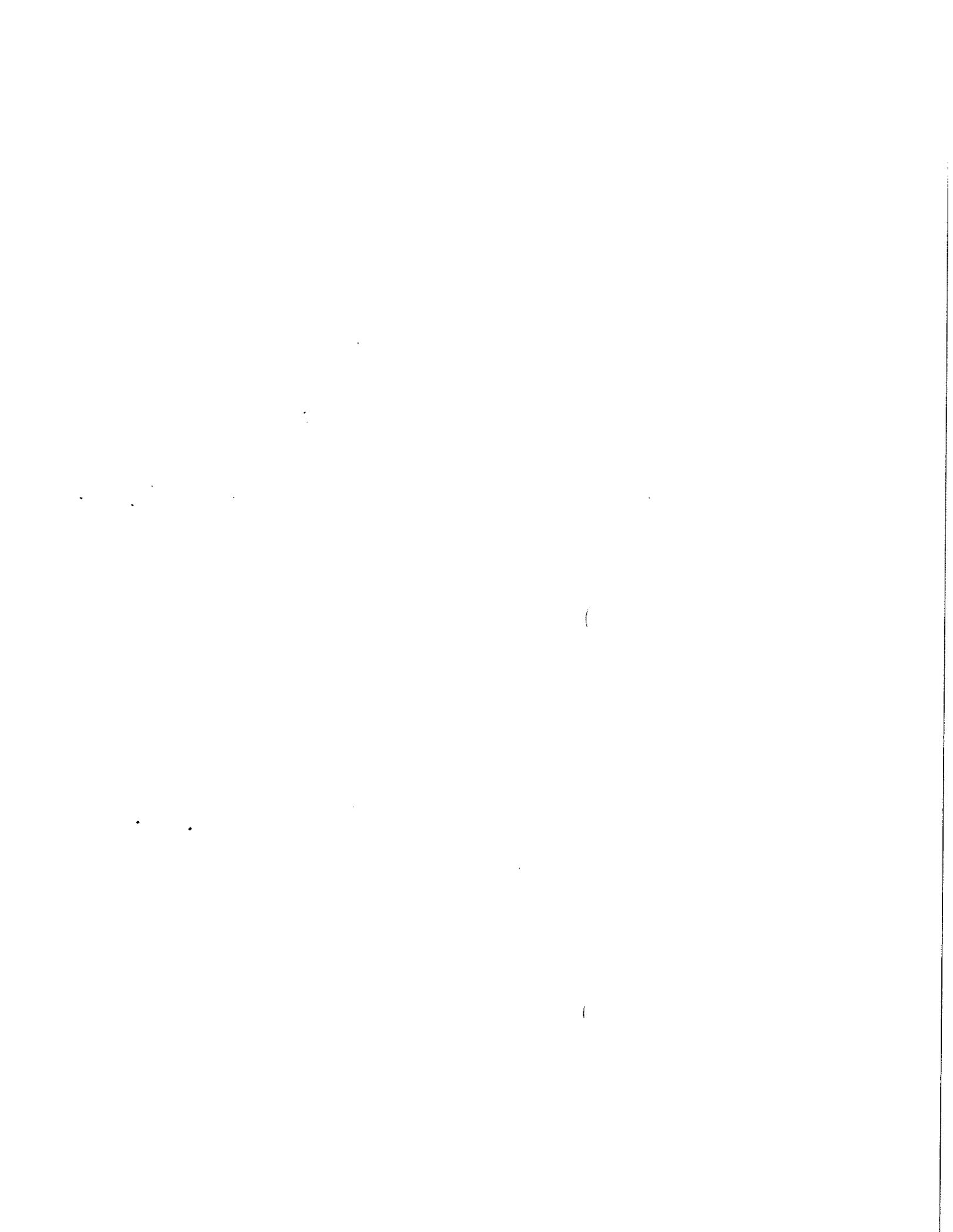
d. *Maintenance: Grass Height.* The lawn or grass area of any residential property shall not be permitted to grow to a height of nine inches or greater.

e. *Enforcement.* The code enforcement officer of the borough is hereby designated as the public officer to exercise the powers herein prescribed and enforce the provisions of this subsection.

f. *Inspection of Property.* The code enforcement officer is hereby authorized to enter upon and examine residential property for the purpose of investigating and determining compliance with the provisions of this subsection; provided, however, that such entry shall be at reasonable times.

g. Complaint. Should the code enforcement officer determine that a violation of this subsection has occurred, he shall cause a complaint to be filed against the responsible party or parties.

h. Penalty. Any person violating any of the provisions of this subsection shall, upon conviction, pay a fine which shall not exceed five hundred (\$500.00) dollars or be less than one hundred (\$100.00) dollars. For any subsequent conviction, the fine imposed shall not exceed one thousand (\$1,000.00) dollars or be less than two hundred (\$200.00) dollars for each such subsequent conviction.



12-4 Removal of Unsafe Buildings.*

12-4.1 Nuisance Defined. Any building which is unfit for human habitation or occupancy, or use, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitation facilities, or due to other conditions rendering such building, or part thereof, unsafe or insanitary or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of the borough shall constitute a nuisance.

12-4.2 Designation of Public Officer. The building inspector or the chief of the fire department or the health officer of the board of health shall be designated or appointed to exercise the powers prescribed by this section.

12-4.3 Standards. The public officer may determine that a building is unfit for human habitation or occupancy or use if he finds that conditions exist in such building which are dangerous or injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents of the borough; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness.

12-4.4 Additional Powers of Public Officer. The public officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers in addition to others herein granted; (a) to investigate the building conditions in the borough in order to determine which buildings therein are unfit for human habitation or occupancy or use; (b) to administer oaths, affirmations, examine witnesses and receive evidence; (c) to enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; (d) to appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the section; and (e) to delegate any of his functions and powers under the section to such officers and agents as he may designate.

* Editor's Note: Prior ordinances codified herein include portions of Ordinance Nos. 9/3/68 and 82-76.

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12-4.5 *Complaint.* Whenever a petition is filed with the public officer by a public authority or by at least five residents of the borough charging that any building is unfit for human habitation or occupancy or use or whenever it appears to the public officer (on his own motion) that any building is unfit for human habitation or occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed not less than seven days nor more than 30 days after the serving of said complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the public officer.

12-4.6 *Finding of Facts; Orders.* If, after such notice and hearing, the public officer determines that the building under consideration is unfit for human habitation or occupancy or use he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order:

a. Requiring the repair, alteration or improvement of the said building to be made by the owner, within a reasonable time, which time shall be set forth in the order or at the option of the owner to vacate or have the said building vacated and closed within the time set forth in the order; and

b. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises, and the owner fails to repair, alter or improve the said building within the time specified in the order, then the owner shall be required to remove or demolish the said building within a reasonable time as specified in the said order of removal.

12-4.7 *Failure to Comply with Order to Repair, Alter or Improve.* If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, the public officer may cause such building to be repaired, altered or improved, or to be vacated and closed; the public officer may cause to be posted on the main entrance of any building so closed, a placard with the following words: "This Building is Unfit for Human Habitation or

Occupancy or Use; the Use or Occupation of this Building is Prohibited and Unlawful."

12-4.8 *Failure to Comply with Order to Remove or Demolish.* If the owner fails to comply with an order to remove or demolish the building, the public officer may cause such building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for, and receipt of, bids therefor.

12-4.9 *Service of Complaints and Orders.* Complaints or orders issued by a public officer pursuant to this section shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once in a newspaper printed and published in the borough, or, in the absence of such newspaper, in one printed and published in Monmouth County and circulating in the borough. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall be duly recorded or lodged for record with the County Recording Officer of the County of Monmouth.

12-4.10 *Assessment of Costs; Collection.* The amount of: (a) the cost of the filing of legal papers, expert witnesses, fees, search fees and advertising charges, incurred in the course of any proceeding taken under this ordinance determined in favor of the borough, and (b) such cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the public officer, he shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof, including the clearance and, if necessary, leveling of the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the borough tax assessor or other custodian of the records of tax liens and a copy thereof shall be forthwith forwarded

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to the owner by registered mail. If the total of the credits exceed such costs, the balance remaining shall be deposited in the Superior Court by the public officer, and shall be secured in such manner as may be directed by such court, and shall be disbursed according to the order of judgment of the court to the persons found to be entitled thereto by final order of judgment of such court. Any owner or party in interest may, within thirty days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

12-4.11 *Summary Proceedings.* If an actual and immediate danger to life is posed by the threatened collapse of any fire damaged or other structurally unsafe building, the public officer may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgement in summary proceedings for the demolition thereof.

12-4.12 *Limitations in Application.* Nothing in this section shall be construed to impair or limit in any way the power of the borough to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this section intended to limit the authority of the enforcing agency or construction official under the "State Uniform Construction Code Act". P.L. 1975, c. 217 (c. 52:27D-119, et seq.) or any rules or regulations adopted thereunder.

12-4.13 *Remedies.* Any person aggrieved by an order issued by a public officer under this section may, within 30 days after the posting and service of such order, bring an action for injunctive relief to restrain the public officer from carrying out the provisions of the order and for any other appropriate relief. The court may proceed in the action in a summary manner or otherwise. The remedy herein provided shall be exclusive, and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant thereto, or because of noncompliance by any person with any order of the public officer.

12-4.14 *Definitions.* The following terms whenever used or referred to in this section shall have the following respective meanings for the purposes of this section, unless a different meaning clearly appears from the context:

- a. "Governing body" shall mean the mayor and borough council, or other legislative body charged with governing the borough.
- b. "Public officer" shall mean the officer, officers, board or body who is or are authorized by the section to exercise the powers prescribed by such section.
- c. "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the Borough of Little Silver, Monmouth County, or the State of New Jersey relating to health, fire, building regulations, or other activities concerning buildings in the borough.
- d. "Owner" shall mean the holder or holders of the title in fee simple.
- e. "Parties in interest" shall mean all individuals, associations and corporations who have an interest of record in a building and any who are in actual possession thereof.
- f. "Building" shall mean any building, or structure, or part thereof, whether used for human habitation or otherwise, and includes any outhouse, and appurtenances belonging thereto or usually enjoyed therewith.

12-5 Soil Removal.

12-5.1 Definitions. As used in this section:

"Land" shall mean any parcel of land, or portion thereof, the boundary lines of which can be ascertained by reference to the maps and records, or either, in the office of the tax assessor of the borough or the office of the Monmouth county clerk.

"Move" shall mean to dig, excavate, remove, grade, re-grade, level or otherwise alter or change the location or contour, transport, fill or supply, but shall not be construed to include plowing, spading, cultivating, harrowing or discing of soil or any other operation usually and ordinarily associated with the tilling of soil for agricultural or horticultural purposes.

"Soil" shall mean any earth, top soil, sand, clay, loam, gravel, humus, rock or dirt without regard to the presence or absence therein or organic matter.

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12-5.2 *Permit to Move.* No person shall move or permit to be moved any soil from, in or upon any land in the borough, unless and until a soil permit therefor shall first have been issued by the building subcode official.

12-5.3 *No Owner to Permit Removal.* No owner of any land in the borough shall permit any soil in or upon such land to be moved from the premises by any other person until such person has first obtained a soil permit to do so.

12-5.4 *Subdivision Regulations.* No soil permit shall be required in connection with the moving of any soil from, in or upon any land, as shown upon any subdivision map approved heretofore or hereafter preliminarily as a major subdivision or finally as a minor subdivision by the mayor and council pursuant to the land subdivision chapter, provided such moving is performed in accordance with contours approved under the major or minor subdivision.

12-5.5 *Regulation up to 500 Cubic Yards.* Any person, not exempt under subsection 12-5.4 above, desiring to move any soil from, in or upon any lands within the corporate limits of the borough shall, before commencing work, file a written application for a permit on a form furnished by the borough, which application shall contain a description of the work to be done, the amount of soil to be moved, the area affected, the purpose of same, the length of time the work will require, the name and address of the owner of the land and such other pertinent data as the

mayor and council require. When the application provides for the moving of soil of not more than 500 cubic yards, it shall be filed with the building inspector who shall issue a permit upon payment of a permit fee of five (\$5.00) dollars.

12-5.6 Removal of Over 500 Cubic Yards. Where the application provides for the moving of soil in excess of 500 cubic yards, on any parcel of land under single ownership, the same shall be filed with the borough clerk together with a filing fee of twenty-five (\$25.00) dollars. After filing, the same shall first be forwarded to the borough engineer for review and recommendation. Following his review and recommendation, the application shall then be forwarded to the planning board for review and recommendation. The application shall be forwarded to the mayor and council for final action. Upon request, the applicant shall be granted a hearing before the mayor and council, in connection with the application. Upon final approval the borough clerk shall issue a permit subject to the terms of this section and any special conditions found necessary in a specific case. The permit shall expire one year from date of issuance but may be renewed for an additional six months in the discretion of the mayor and council.

12-5.7 Action by Mayor and Council. Final action by the mayor and council shall be taken under the above subsection no later than 90 days after the first regular meeting of the mayor and council following submission of the application to the borough clerk. If no final action is taken within such time by the mayor and council and unless the delay is caused by the applicant, the application shall be deemed to have been granted and a permit shall be issued. The applicant shall be responsible for the transmittal of the application to the borough engineer, planning board and the mayor and council.

12-5.8 Factors Considered. In considering and reviewing the application and in issuing or denying the permit, the mayor and council shall be guided by the general purpose of municipal planning, and shall take into consideration, the following factors:

- a. Soil erosion by water and wind.
- b. Surface water drainage.
- c. Soil fertility.
- d. Lateral support of abutting street, lots and land.
- e. Public health and safety.
- f. Land values and uses.

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g. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the borough.

h. Water table.

In considering the application, the borough engineer, planning board or the mayor and council may require the submission of a map or maps containing the following data:

i. Present contour lines and contour grades of the lots and lands.

j. Proposed contour lines and proposed contour grades resulting from such intended removal of soil in relation to the adjoining property.

k. Such other pertinent data as the mayor and council may require.

The time which may elapse for the procuring of such map or maps shall not be computed as part of the time limit set forth in subsection 12-5.6.

12-5.9 *Performance Bond.* Before any permit under subsection 12-5.6 is issued, the applicant shall file with the mayor and council a performance bond with satisfactory surety, the amount to be determined by the borough engineer and the mayor and council, which bond shall be conditioned upon full and faithful performance by the principal within the time specified in the application of all the proposed work as set forth in the application, and which may be found necessary by the mayor and council. In addition, the bond shall be conditioned upon the repair, at the expense of the owner or applicant, of any street damaged by the transportation of soil in connection with the application if, in the judgment of the mayor and council, such repairs are deemed necessary. The term expense shall include the cost and supervision incurred by the borough engineer in connection with such repairs.

12-5.10 *Topsoil Retained.* The owner of the premises or the person in charge of the moving of soil, where a soil permit has been issued, shall not take away the top layer of arable soil to a depth of six inches but it shall be set aside for retention on the premises and shall be re-spread over the premises when the rest of the soil has been removed, pursuant to levels and contour lines approved by the mayor and council where such approval is required herein. All fill material shall be suitable sandy material placed to the full width of the cross-section and shall be compacted by distributing the same uniformly over each succeeding layer or by rolling with a ten-ton roller. Stumps, trees, rubbish, bricks, rocks, concrete and other materials unsuitable for drainage such as clay shall not be utilized in any filling process in the borough.

12-5.11 *No Pits to Be Left.* In the moving of soil the owner or person in charge shall so conduct the operations that there shall be no sharp declivities, pits, depressions or mounts.

12-5.12 *Inspection.* The building inspector, borough engineer, mayor or any member of the borough council or planning board shall at all times have the right to inspect any property where a permit has been issued. The borough engineer, borough council and planning board shall also have the right to inspect the property at any time for the purpose of laying out roads, drainage, or for any other purpose deemed in the best interest of the borough.

12-5.13 *Deposit of Fees.* Where the amount of soil to be moved exceeds 500 cubic yards for every 15,000 square feet of land, there shall be deposited with the borough clerk before issuance of the permit, a permit fee computed at the rate of three cents per cubic yard multiplied by the estimated number of yards of soil to be moved within the licensed period as defined in this section, except rock, and six cents per cubic yard on rock, as stated in the application, provided the mayor and council may waive or modify this requirement for the entire payment initially, but shall require not less than 10 percent of the total permit fee to be paid with the application. The balance of the fee shall be paid in monthly installments equal to the number of yards moved in each month multiplied by the amount stipulated in this subsection. The monthly installments shall be paid on or before the tenth day of the month following the month in which the soil or rock has been removed. Failure to make payment on this date shall result in suspension of the permit until all arrears have been paid. The permit fee shall be in addition to the filing fee required under subsection 12-5.6.

12-6 Fuel Oil Burners.

12-6.1 *Permit Required.* No oil, gas or electric heating equipment shall be installed until application has been filed with a permit secured from the plumbing inspector.

The fee to be paid to the borough for the permit shall be the sum of five (\$5.00) dollars; the fee to be paid for the two inspections to be made in the case of new installations shall be the sum of five (\$5.00) dollars, and shall be paid to the plumbing inspector.

The application shall set forth in detail the specifications of proposed installation based on the provisions hereinafter prescribed by this sec-

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tion. The application shall be accompanied by plans drawn to an indicated scale; these plans shall show in detail location and method of oil storage and all other features necessary for a complete description of the oil burning system, and including proposed methods for protecting combustible material adjacent to the oil burner, gas or electric heating units.

12-6.2 *Regulations.*

a. There shall be no metal pipe or terra-cotta pipe used as a chimney in any type of building or dwelling in either new or old construction. All existing metal pipe of flue used as a chimney now in use shall be replaced by a flue lined chimney within a period of 60 days after due notice in writing from the plumbing inspector.

b. The installation of any type of heating system in a crawl space or unexcavated basement is unlawful.

c. Heating systems that are installed in a garage, shall be enclosed in a room that is completely fireproofed.

12-6.3 *Definitions.* For the purpose of this section:

a. "Fuel oil burners" shall mean any device including burners, motors, piping valves and other equipment designed and arranged for the purpose, of burning fuel oil for heating purposes.

b. "Tanks" shall mean any container for such fuel oil, having a capacity of 25 gallons and over, directly or indirectly connected with such fuel oil burners.

c. "Auxiliary tanks" shall mean any tank between the storage tank and the burner delivering oil by gravity or pressure to the fuel oil burners or blower.

d. "Storage tank" shall mean any tank for the storage of oil connected through some approved means of suction feed directly to the fuel oil burner or indirectly to the fuel oil burner through approved auxiliary tank.

12-6.4 *Only Burners to Be Installed.* The plumbing inspector shall issue permits for the installation of only those oil burners which are listed as standard by the National Board of Fire Underwriters.

12-6.5 *Location of Storage Tanks.*

a. When located above ground, inside of buildings, or above ground outside of aggregate capacity of tanks used in connection with the system shall not exceed 275 gallons.

b. Quantities exceeding 275 gallons shall be stored underground.

c. All tanks other than gravity and pressure tanks shall be installed with top of tank below the level of the burner. Where conditions are such that this arrangement is not practicable, adequate provisions to prevent siphoning shall be provided.

12-6.6 *Material and Construction of Tanks.*

a. Tanks shall be constructed of galvanized steel, open hearth or wrought iron of a minimum gage (U.S. Standard depending upon the capacity as given in Table 1).

TABLE 1

Capacity Gallons	Gage	Min. Thickness of Material lbs. per square foot
1 to 285	16	2.50
285 to 560	14	3.125
561 to 1,100	12	4.375
1,101 to 4,000	7	7.50
4,001 to 12,000	1-2 inch	10.00
12,001 to 20,000	5-6 inch	12.50
20,001 to 30,000	3-8 inch	15.00

For tanks of 1,100 gallons and more, a tolerance of ten percent in capacity shall be allowed. Underground tanks of open hearth or wrought iron thinner than No. 7 gage shall be galvanized. If adequate internal bracing is provided, tanks from 12,000 to 30,000 gallons capacity may be built of one-fourth inch plate.

b. All joints shall be riveted and caulked, brazed, welded, or made tight by some equally satisfactory process. Shells of tanks shall be reinforced where connections are made, and all connections made through top of tank above the liquid level.

c. Tanks for system under pressure shall be designed for four times the maximum working pressure and tested to twice the maximum working pressure.

d. Underground tanks shall be coated on the outside with tar, asphaltum, or other suitable rust-resisting material, depending upon the condition of the soil; where soil contains corrosive substances special protection shall be required.

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e. All inside, aboveground and auxiliary tanks shall be coated with a good quality of rust-resisting paint.

12-6.7 *Venting of Tanks.* Every underground storage tank shall be provided with an open or automatically operated vent pipe without trap and draining to tank.

a. All inside, aboveground tanks outside aboveground tanks, and auxiliary tanks shall be provided with open vent pipes.

b. All vent pipes shall be of ample size to prevent abnormal pressure in case of fire or when filling and shall in no case be less than one inch pipe size; lower and shall extend through tank's top not more than one inch; outer end will terminate outside of building at a point not less than three feet, measured horizontally or vertically from any window or other building opening, and be provided with screened weatherproof hood, and not less than ten feet above the grade.

12-6.8 *Filling Pipe.* Filling pipe shall be placed outside of building, so located as to preclude flow of oil or vapor therefrom through building openings and so designated that oil will not flow on any part of sidewalk. The same shall be watertight with lock cap.

12-6.9 *Setting of Tanks: Underground Tanks.*

a. Tanks. Tanks shall be buried underground with top of tank not less than three feet below the surface of the ground and below the level of any piping to which the tanks may be connected, except that in lieu of the three feet cover tank may be buried under 24 inches of earth and a cover of reinforced concrete at least 12 inches in thickness, provided which shall extend at least two feet beyond the outline of the tank in all directions; the concrete slab shall be set on a firm, well tamped earth foundation. Tanks shall be secured, anchored or weighed in place to prevent floating where special conditions make it necessary.

b. Where a tank cannot be entirely buried, it shall be covered with earth to a depth of at least three feet with a recommended slope on all sides of not less than three to one, but under no circumstances shall such slope be less than two to one, depending on the angle of repose of the earth. Such cases shall also be subject to such other requirements as may be deemed necessary by the plumbing inspector.

c. If the tank cannot be set below the level of all piping to which it is connected, satisfactory arrangements shall be provided to prevent siphoning or gravity flow in case of accident to the piping. When it is impractical to bury storage tanks, the plumbing inspector may allow them

to be installed inside of building when completely encased in 12 inches of concrete and six inches of sand and located in the lowest story, cellar or basement.

d. Underground tanks shall be set on a firm foundation and surrounded with soft earth or sand well tamped in place.

e. Tanks having a capacity of not to exceed 1,500 gallons, when installed under buildings shall be surrounded with soft earth and sand well tamped in place, and the floor immediately above the tank shall be of reinforced concrete, in thickness capable of withstanding a uniformly distributed load of 250 pounds per square foot; reinforcement shall extend at least 24 inches on all sides of tank.

f. Inside storage, gravity and auxiliary pressure tanks, shall be provided with securely attached substantial incombustible supports and be securely bolted to basement floor or otherwise secured to avoid strains on piping, and shall not be located within ten feet, measured horizontally, from any fire or source of flame.

12-6.10 *Gravity and Pressure Tanks.*

a. Auxiliary supply tanks may be the gravity or pressure type if suitable automatic safeguards to prevent abnormal discharge of oil at the burner are provided. No such tank shall have a capacity sufficient for more than one day's supply and in no case shall exceed 60 gallons.

b. If located within a building, gravity tank shall not be within five feet, or pressure tank within ten feet, measured horizontally, from any fire or flame.

c. Gravity or pressure tank shall be substantially and rigidly installed on incombustible supports in such a manner as to insure protection against mechanical injury.

d. Auxiliary pressure tanks shall be designated for six times the maximum working pressure and be tested and proven tight at twice the maximum working pressure; working pressure shall not exceed 50 pounds. Pressure tanks shall be provided with a reliable pressure gauge and an automatic relief valve piped to discharge outside of building.

12-6.11 *Filling of Auxiliary Tanks.*

a. Auxiliary tanks shall be filled by pumping from the storage tanks.

b. Tanks shall be provided with an overflow connection, drainage to storage tank. Overflow pipe shall not be less than one size larger than supply pipe from an auxiliary.

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c. The overflow pipe from an auxiliary gravity tank shall not be provided with valves or obstructions; but overflow pipe or auxiliary pressure tank shall be provided with interconnected valves or other means for automatically venting tank when filling.

12-6.12 *Pumps.*

a. Pumps used in connection with systems where oil is pumped directly to burner without the use of pressure or gravity tanks shall be so automatically controlled as to insure their shutting down in case of abnormal discharge of oil at the burner or rupture in discharge piping.

b. Oil pumps used in filling auxiliary tank from the main storage tank shall be of a type approved by the plumbing inspector and shall be secure against leaks, with check valves located as close to pump as convenient. Pumps shall be rigidly fastened in place.

c. Automatic pumps not an integral part of the oil burner shall be provided with means of preventing continuous discharge of oil in case of pipe breakage.

12-6.13 *Piping.*

a. Standard full weight, copper tubing with flared fittings and no sweat joints. Wrought iron, steel, or brass pipe with standard fittings shall be used. Installation shall include protection of piping against mechanical injury from any source.

b. Piping shall be permanently separated from open wiring by a continuous and firmly installed iron conductor as required by National Electric Code.

c. Supply pipe shall be not less than one-fourth inch iron pipe size, when oil is pumped to burner, return pipes shall be at least of equal size.

d. Pipe connections to tank shall be suitably reinforced and proper allowances made for expansion and contraction, jarring and vibration.

e. Opening for pipe through masonry walls below the ground level shall be made all tight and securely packed with flexible material.

f. All connections shall be made tight with litharge and glycerine. Unions shall be used at burners to facilitate removal; they shall have conically faced joints; obviating use of packing or gasket.

g. Piping shall be run as directly as feasible, and for pumping system, so laid that if practicable the pipes will drain toward storage tanks without traps.

h. Systems under pressure shall be designed for six times the working pressure and installation when complete shall be tested and proven tight at least twice the maximum working pressure.

12-6.14 *Valves.*

a. Readily accessible valves shall be provided near each burner and also close to the auxiliary tank in the pipe line to burners.

b. Control valves shall be provided with stuffing box of liberal size, containing a removable cupped gland designed to compress the packing against the valve stem, and arranged to facilitate removal. Valves shall be designed to close against the supply and prevent withdrawal of them by continued operation of handwheel. The use of packing affected by oil or heat is prohibited.

12-6.15 *Emergency Control.* Means for remote control of the flow of oil to the burner shall be provided for use in emergency, and a sign indicating its purpose shall be located for use in emergency, and a sign indicating its purpose shall be located at the control device.

12-6.16 *Burner Regulations.*

a. The size of the orifice through which the oil is supplied to the burner shall be limited to furnish only sufficient oil for maximum burning condition when the control valves are wide open.

b. Valves shall be arranged so as not to enlarge orifice.

c. Burners containing chambers which allow the dangerous accumulation of gases, or oil conveying pipes or parts subject to intense heat or stoppage due to carbonization are prohibited.

d. Burners shall be so designed as to permit of ready cleaning and not allow the leakage of oil.

e. No burner shall be installed in a pit where water might accumulate, except such pit be provided with means for removing same.

f. All burners subject to automatic ignitor shall be provided with permanent automatic device so designed that oil upon being turned in the combustion chamber will immediately become ignited or automatically shut off.

12-6.17 *Furnace and Ranges.*

a. Previous to the installation of the burner, the ash door of the furnace shall be permanently removed or bottom ventilation otherwise

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provided to prevent accumulation of vapors within the ashpit unless burner is of type which mechanically purges ash pit. When ash door is closed, other furnace doors shall be arranged to swing from top or otherwise arranged to relieve pressure that might be caused by puffs or backfires to delayed ignition. All boiler rooms must be properly vented to the outside through the medium of an opening in the window or elsewhere of a size at least the area of the smokebreaching or breeching attached to the furnace fired by oil burners.

b. Stoves or ranges originally designed for use of fuel other than oil should not be used in connection with oil burners unless spaces in which vapors might collect are adequately vented.

c. Dampers which may entirely close the chimney uptake are prohibited. In no case shall damper area exceed 80 percent of the internal cross section area of the uptake.

d. No combustible material shall be stored within ten feet of furnace door.

12-6.18 *Fire Protection.*

a. Any woodwork, wooden lath, and plaster partition or other combustible material within four feet of the sides or back, or eight feet from the front of the furnace shall be covered with plaster board or other incombustible material approved by the plumbing inspector. Above the furnace there shall be constructed a ceiling consisting of plaster board covered with sheet metal, or cement plaster on metal lath; ceiling shall extend four feet beyond the sides and back and eight feet from the front.

b. At least a 36 inch clearance shall be provided between the top and sides of breeching, and flues from ceiling, partitions and other combustible material, unless the breeching and flues are insulated with two or four inches of incombustible material, in which the clearance may be reduced to 18 inches.

c. All electrical installations in connections with oil burner devices in the borough shall be installed in accordance with the rules of the National Electrical Code. Certificate of approval shall be submitted to the plumbing inspector, and after due record has been made, forwarded to the owner of the premises in which oil burner equipment has been installed.

12-6.19 *Gas Heat.* All gas burning heaters shall be installed in accordance with the rules of the American Standard Installation of gas piping and gas appliances in buildings, flues or vents on the gas burning heaters to be approved by a nationally recognized testing agency and to be

vented or flued into a flue lined chimney, with the exception as follows: In business, industrial or other nonresidential construction gas burning heating vents of the type known as Van Packer or other types of equal construction which have received prior approval of the American Board of Fire Underwriters may be used on all hanging units when the vertical run of the vent pipe does not exceed ten feet. All flues or vents running through walls shall be inspected before being enclosed. All other heaters shall be vented to a flue lined chimney.

One inspection for gas burning equipment shall be required which shall be made on completion of installation. The plumbing inspector shall, where he deems it necessary, make a preliminary inspection. The fee for the permit shall be five (\$5.00) dollars, payable to the borough; the fee for inspection shall be five (\$5.00) dollars payable to the plumbing inspector.

12-6.20 Water Heaters. All electric and gas automatic water heaters shall be installed according to the laws of the National Electrical Code and the American Standard Installation of gas piping and gas appliances in buildings. Every installation shall be equipped with a shut-off on the cold water supply, a drain cock on the bottom of the boiler and a combination temperature and pressure relief valve.

One inspection for water heaters shall be required. This inspection shall be made upon completion of installation. The fee for the permit shall be five (\$5.00) dollars, payable to the borough; the fee for inspection shall be five (\$5.00) dollars payable to the plumbing inspector.

12-7 Snow and Ice Removal from Commercial Property.

12-7.1 Removal Required. Every person, partnership, corporation, joint stock company or syndicate, which owns, or is in charge or control of, any commercial building, building with adjacent parking lot for public use, parking lot for public use, or lot of land for commercial use within the borough fronting or abutting on paved sidewalks of public streets, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away, or cause to be removed and cleared away, snow and ice from sidewalks and parking lots within twelve hours of daylight after the snow and ice shall have been formed or fallen.

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In the case of ice which may be frozen as to make removal impracticable, the ice shall be thoroughly covered with sand, ashes, or salt, within six hours of daylight after the same shall have been formed.

12-7.2 *Penalties for Failure to Comply.* Any person, firm or corporation violating any of the provisions of this section shall, upon conviction thereof, be subject to a fine not to exceed two hundred (\$200.00) dollars. Each day that any violation exists will constitute a separate offense.

12-8 **General Property Maintenance Code.**

12-8.1 *Title.* This section shall be known as the "General Property Maintenance Code" of the Borough of Little Silver.

12-8.2 *Findings.* It is hereby found and declared that there exist in the borough structures and vacant lots which are or may become in the future substandard with respect to structural integrity, equipment of maintenance, and further that such conditions, including but not limited to structural deterioration, lack of maintenance or upkeep of essential facilities and utilities and existence of fire hazards and unsanitary conditions, constitute a menace to the health, safety, welfare and reasonable comfort of the citizens and inhabitants of the borough. It is further found and declared that, by reason of lack of maintenance and ensuing progressive deterioration, certain properties have the further effect of creating blighting conditions and that, by reason of timely regulations and restrictions as herein contained, the growth of this blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of dwellings and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

12-8.3 *Purpose.* The purpose of this code is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance and condition of the exterior of residential and nonresidential premises; to avoid, prevent and eliminate the maintenance of or creation of hazards to the public health and safety; to avoid, prevent and eliminate conditions which, if permitted to exist or continue, will depreciate or tend to depreciate the value of adjacent or surrounding properties; to prevent the creation, continuation, extension or aggravation of blight; to fix certain responsibility and duties upon

owners, operators and occupants of property; and to provide for administration and enforcement of this chapter.

12-8.4 Compliance Required; Applicability. All vacant lots shall comply with the provisions of this code, and every residential and nonresidential structure used for residential, commercial, business or industrial occupancy, including vacant structures, and the premises on which it is situate in the borough, shall comply with the provisions of this code, whether or not such structure shall have been constructed, altered or repaired before or after the enactment of this code and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the structure or for the installation or repair of equipment or facilities prior to the effective date of this code.

12-8.5 Higher Standards to Prevail. In any case where the provisions of this code impose a higher standard than that set forth in any ordinance of the borough or under the laws of the State of New Jersey, then the standards as set forth herein shall prevail; but if the provisions of this code impose a lower standard than any ordinance of the borough or of the laws of the State of New Jersey, then the higher standard contained in any such other ordinance or law shall prevail.

12-8.6 Existing Remedies to Be Unimpaired. Nothing in this chapter shall limit or impair any existing remedies of the municipality, or its officers or agencies, relating to the removal or demolition of any buildings or structures which are deemed to be dangerous, unsafe or unsanitary.

12-8.7 Definitions. Unless otherwise expressly stated, the following terms shall, for the purpose of this section, be defined as follows:

Deterioration shall mean the condition of a structure, or part thereof, characterized by holes, breaks, rot crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.

Enforcement officer shall mean the property maintenance officer or his authorized representative.

Exterior of premises shall mean those portions of a building or structure which are exposed to public view or are visible from adjoining or adjacent properties, including all outside surfaces and appurtenances thereto, and the open space on the premises outside any building or structure erected thereon.

Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food by poison, spraying, fumigating, trapping or by any other approved pest-elimination methods.

Fire hazard shall mean anything or any act which increases or may cause any increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire or which may obstruct, delay or hinder or may become the cause of an obstruction, delay, hazard or hindrance to the prevention, suppression or extinguishment of fire.

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

Nuisance shall mean any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New Jersey, any of its agencies or this code. Any physical condition existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to the health or safety of persons on, near or passing in proximity of the premises where said condition exists.

Occupant shall mean any occupant, owner, agent, tenant, lessee, caretaker or other person or corporation in charge of, residing, living or sleeping in or on the premises of or having actual possession or use of a business, dwelling unit or rooming unit or other premises affected by this section.

Operator shall mean any person, persons or entity, not be the owner, who has charge, care or control of a structure or a part thereof, with or without the knowledge, consent or authority of the owner.

Owner shall mean any person, persons or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof, with or without accompanying actual possession thereof, or who shall have charge, care or control of any lot, premises, building, structure or part thereof, as owner or agent of the owner or as fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained. Any person, group of persons or entity who is a lessee, sublessee or assignee of a lessee of any part of or all of any building, structure or land shall be deemed to be a co-owner with the lessor for the purposes of this section and shall have responsibility over that portion of the premises so sublet, leased or assigned.

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

Rubbish shall mean all combustible and noncombustible waste materials other than garbage, including but not limited to the following: paper, rags, cartons, boxes, wood excelsior, rubber, leather, stumps (whether loose or inground), tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and the residue from burning wood, coal, coke or other combustible material and solid commercial and industrial waste.

12-8.8 Duties of Owners, Operators and Occupants. Owners, operators and occupants shall have all the duties, obligations and responsibilities prescribed in this section, and no such persons or entity shall be relieved of any such duty, obligation or responsibility hereunder, nor may any such person or entity assert as a defense against any charge made under this chapter that another owner, operator or occupant or any other third person or entity is also responsible therefor and in violation thereof.

12-8.9 Maintenance Standards.

a. *Exterior of Premises.* The exterior of all premises shall be kept free from hazards and nuisances which include, but are not limited to, the following:

1. Garbage and rubbish, as defined in this section.
2. Unsafe structures: structurally unsafe or unsound buildings, structures or fences or abandoned, uncovered or structurally unsound walls, shafts, towers, exterior cellar openings, basement hatchways, foundations or excavations and abandoned septic tanks or cesspools.
3. Discarded appliances and plumbing fixtures: abandoned refrigerators, boilers, hot-water heaters, television sets and other similar major appliances, sinks, bathtubs, commodes and other plumbing fixtures.
4. Overhangings: loose and overhanging objects, whether natural or man-made, and accumulations of ice and snow which, by reason of location above ground level, constitute a threat to the health and safety of people if caused to fall.
5. Ground surface hazards: hidden or uncovered ground or surface hazards, such as holes, sudden depressions, excavations, sharp or jagged projections or obstructions.

6. Recurring accumulations of storm water: stagnant surface or ground water accumulations of water which create or are likely to create insect breeding areas.

7. Infestation: rodents, vermin, pest infestations and conditions causing the same.

8. Lawn and landscaping: overgrowth or neglect or unreasonable maintenance of landscape plantings and ground covers, including failure to remove in a timely manner dead or diseased trees and shrubbery, or parts thereof.

9. Inoperable vehicles: vehicles or parts thereof, including boats and trailers, motorized or not, regardless of whether licensed or registered, which vehicles or parts thereof have been dismantled or are in a state of visible disrepair or in an abandoned condition.

10. Operable vehicles which are visible from the road parked in yards in other than clearly designated driveway areas as evidenced by curbing or a paving material such as macadam, concrete or stones.

b. *Structural Soundness.* Every structure and accessory structure, and every part thereof, shall be kept structurally sound and in a state of good repair to avoid safety, health and fire hazards, including but not limited to the following:

1. Foundation walls: inadequate or unsafe foundation walls, piers and columns and other similarly unsound, damaged or defective load-bearing components which are incapable of supporting the imposed loads safely at all points.

2. Exterior porches, landings, balconies, stairs, ramps and fire escapes: structurally unsound, loose, dangerous, crumbling, missing, broken, rotted or unsafe exterior portions of buildings or structures, including but not limited to porches, landings, balconies, stairways, handrails, steps, walls, overhangs, roofs, fences, supporting members, timbers, abutments, fire escapes, signs and eaves, crumbling or falling bricks, blocks, mortar or plaster.

3. Projecting surfaces: exterior surfaces or parts of buildings or structures containing sharp, rough or projecting surfaces or objects which might cause injury to persons coming in contact therewith.

4. Windows, doors, etc.: broken glass or windows; rotten, missing or substantially destroyed window frames and sashes, door frames, exterior doors or other junior exterior component parts of buildings or structures.

5. Exterior walls, sidings and roof: exterior walls, sidings, gutters and leaders and roof shall be kept structurally sound, in good repair and free from defects.

6. Exterior chimneys: exterior chimneys shall be maintained structurally sound, free from defects and so maintained as to capably perform at all times the functions for which they were designed.

c. *Steps, Ramps, Walks, Driveways and Parking Lots.* Steps, ramps, walks, driveways, parking areas, parking lots, parking spaces and similar areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled, or necessary repairs or replacement shall be performed promptly.

12-8.10 *Administration and Enforcement.*

a. *Enforcement Officer.* It shall be the duty and responsibility of the property maintenance code enforcement officer of the borough to enforce the provisions of this code as herein provided. Property maintenance code enforcement officer, throughout this section, shall also mean subordinates of the property maintenance code enforcement officer.

b. *Coordination of Enforcement.* Inspection of premises and the issuing of orders in connection therewith under the provisions of this code shall be the exclusive responsibility of the property maintenance code enforcement officer. Wherever, in the opinion of the property maintenance code enforcement officer, it is necessary or desirable to have inspections of any condition of any other department, he shall arrange for this to be done. No order for correction of any violation under this code shall be issued without the approval of the property maintenance code enforcement officer.

c. *Inspections.*

1. The enforcement officer is authorized to enter upon any land at any reasonable time for the purpose of performing his duty, with the consent of the property owner.

2. In the event that a property owner refuses such consent, the enforcement officer is authorized to apply to the judge of the Little Silver Municipal Court for an administrative search warrant. The judge may issue such warrant upon review of an affidavit of the enforcement officer setting forth the following:

(a) The precise regulatory purpose of the proposed search.

(b) The frequency of previous requests for such warrants affecting the subject premises, if any.

(c) The exact scope of the search sought, setting forth the area or areas of the premises to be searched.

(d) The exact manner in which the search is to be conducted.

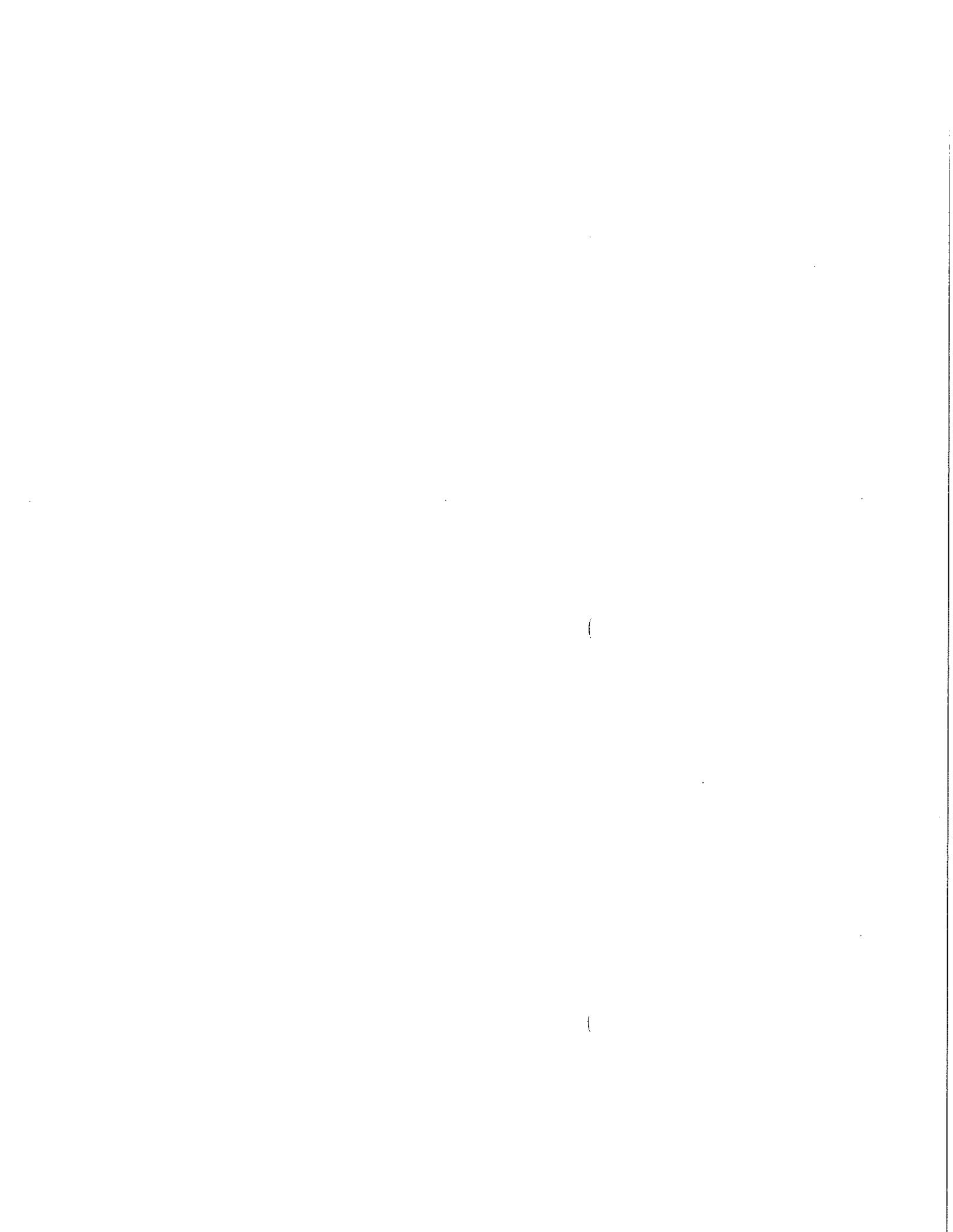
3. All warrants so issued shall be limited to the purpose, scope and manner of the search as set forth in the affidavit, and all searches conducted pursuant to this section shall be as strictly set forth in such warrants.

4. No search conducted pursuant to such administrative search warrant shall take place other than during the hours of 8:00 a.m. to 6:00 p.m., unless the enforcement officer demonstrates that an emergency exists and the public health, safety and welfare requires such search during earlier or later hours, as the case may be.

5. The inspections authorized hereunder are in addition to those which may be authorized by the laws of the State of New Jersey.

d. *Enforcement Procedure.* Whenever the enforcement officer determines that there is or has been a violation of any provision of this section, he shall give notice of such violation to the person, persons or entities responsible therefore under this section. Such notice shall be in writing and shall include a concise statement of the reasons for its issuance. Such notice shall be deemed to be properly and sufficiently served if a copy thereof is sent by regular mail to the last known address of the person or entity upon which the same is served, as shown by the most recent tax records of the municipality, or a copy thereof handed to said person or persons or a copy thereof left at the usual place of abode or office of said persons or entities. Notice shall be given as aforesaid within or without the municipality. The notice shall also state that unless the violation is abated, removed, cured, prevented or desisted within 30 days, seven days in the case of any vegetative growth, of the date of service of such notice (exclusive of the date of service); a summons shall be issued for such violation. The enforcement officer may extend the period for compliance with the requirements of this section in regard to the violation stated in the notice for a period in excess of the aforesaid 30 days, seven days in the case of any vegetative growth, if, in his judgment, the abatement, removal, prevention, cessation or cure of this condition violated cannot reasonably be effected within the 30-day period; and in such cases, the enforcement officer shall state such reasonably required extended period of notice, which shall then be applicable, instead of the aforesaid 30 days or seven days in the case of any vegetative growth. In the

event that the violation is not abated, removed, cured, prevented or desisted from or otherwise fully remedied within said 30-day period or within such extended period as set forth in the notice, pursuant to the foregoing, a summons shall be issued against the person, persons, entity or entities so notified. Any extension beyond 60 days must be approved by the mayor and council of the Borough of Little Silver.



e. *Emergency Conditions.* Whenever the enforcement officer finds that an emergency condition in violation of this chapter exists, which condition requires immediate attention in order to protect the public health or safety, he may issue an order to protect by service of notice as set forth in paragraph d. above, reciting that such action be taken by the violator as soon as is reasonably necessary to meet the emergency. Notwithstanding any other provision of this chapter to the contrary, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, and such person shall be afforded a hearing before the governing body of the borough as soon as is reasonably possible. After such a hearing and decision by the governing body as to the existence or nonexistence of the emergency condition, the governing body may continue such order in effect or modify or withdraw it, subject to the issuance of a summons for violation thereof if such order is continued.

12-8.11 *Violations and Penalties.*

a. Any person or entity who shall violate any of the provisions of this chapter or any order promulgated hereunder shall, after a summons is issued under the terms hereof, be punished as follows:

1. For the first offense of each violation, by a fine not to exceed one hundred (\$100.00) dollars.
2. For a second offense of each violation, by a fine not to exceed two hundred fifty (\$250.00) dollars.
3. For a third offense or any subsequent offense of each violation, by a fine not to exceed five hundred (\$500.00) dollars.

b. For purposes of this section, each and every calendar day on which a violation exists may be considered to be a separate and distinct violation.

12-8.12 *Severability; Repealer.*

a. *Severability.* If any section, subsection, paragraph, clause or provision of this section shall be adjudged invalid, such adjudication shall apply only to the section, subsection, paragraph, clause or provision so adjudged, and the remainder of this chapter shall remain in full force and effect.

b. *Repealer.* In any case where a provision of this section is found to be in conflict with or inconsistent with a provision of any other ordinance which establishes a lower standard for the promotion and protection of the safety, health and welfare of the public, those

12-9 BOROUGH OF LITTLE SILVER ORDINANCES

ordinances, or the appropriate portions thereof, are hereby declared to be repealed to the extent that they may be so found to be in conflict with this section.

12-9 Sump Pump Connections.

12-9.1 *Connections.* No owner, occupant, or tenant of residential, educational, religious, commercial, or industrial properties situated in the Borough of Little Silver shall connect or maintain the connection or permit to be connected or permit the maintenance of the connection of any sump pumps, roof leaders, roof drains, swimming pools, ornamental ponds, water cooled refrigeration, air conditioning units, fire sprinkler systems, and any other similar devices with the Northeast Monmouth County Regional Sewerage Authority's sanitary sewer system.

12-9.2 *New Units.* A certificate of occupancy will not be issued for new units until the plumbing inspector has completed his inspection pursuant to this section.

12-9.3 *Violations and Penalties.* Any person who violates the provisions of this section shall be subject to a penalty not exceeding the sum of one thousand (\$1,000.00) dollars and/or by imprisonment in the county jail for a term not to exceed 90 days. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.