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ORDINANCE AMENDMENT APPROVING THE AMENDMENT TO TITLE V – HOUSING CODE PAR. 102. – PENALTIES OF THE CITY OF NEW HAVEN CODE OF ORDINANCES.

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WHEREAS, the Mayor of the City of New Haven Board desires to amend Par. 102. - Penalties of the City code of Ordinances (Title V – Housing Code) to ensure that residents have safe and sanitary housing; and

WHEREAS, the Mayor submits the proposed ordinance amendments herewith.

NOW THEREFORE BE IT ORDERED, by the Board of Alders of the City of New Haven that the proposed amendments to the Housing Code Ordinance are hereby approved.

Title V

HOUSING CODE

ARTICLE I. IN GENERAL

● **Par. 100. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this title:

- (a) Authority shall mean the authority appointed pursuant to paragraph 500 of this title.
- (b) Basement shall mean a portion of a building located partly underground, but having less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground. Where the contour of the ground level immediately adjacent to the building is interrupted by ditching, pits, or trenching, the average adjoining ground level shall be the nearest contour line parallel to the walls of the building without regard to the level created by ditching, pits, or trenching.
- (c) Cellar shall mean a portion of a building located partly or wholly underground, and having one-half or more than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (d) Director of public health shall mean the legally designated health authority of the city, or his authorized representative.

(e) Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined in subparagraph (y) of this paragraph shall not be regarded as a dwelling.

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

(g) Enforcing officer shall mean the director of the office of building inspection and enforcement, except it shall mean the fire marshal with respect to any nuisance which constitutes a serious fire hazard, and it shall also mean director of public health with respect to the lead paint ordinance as amended (section 16-7 of the Code of Ordinances). The director of the office of building inspection and enforcement may deputize one (1) or more members of his office, as well as members of other city departments, who have a particular skill or competence, to act for him; and the term "enforcing officer" as used elsewhere in this title shall be deemed to include such deputies, but no order or other enforcement action shall be issued unless approved and signed or countersigned by the director or a member of his office so designated.

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

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

(j) Good repair shall mean to keep structurally and mechanically sound, free from defects, and easily maintainable; the acceptability of which repairs shall be determined by the enforcing officer.

(k) Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathroom, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, recreation rooms (but not including "living room"), private workshops or hobby rooms and storage spaces.

(l) Infestation shall mean the presence, within or around a dwelling, or any insects, rodents or other pests.

(m) Lead paint shall mean any pigmented, liquid substance applied to surfaces by brush, roller, or spray in which the total nonvolatile ingredients contain more than six-tenths of one (0.6) percent of lead, by weight, calculated as metallic lead.

(n) Multiple dwelling shall mean any dwelling containing more than two (2) dwelling units.

(o) Nuisance which is a serious threat to life, health or safety shall mean:

(1) Any condition which would constitute a public nuisance at common law; or

(2) Cooking and/or kitchen facilities, bathroom facilities, rubbish and/or garbage disposal facilities or means of egress, not maintained as required by subparagraphs (a), (b), (d) and/or (f), paragraph 301 of this title; or

(3) The absence of adequate ventilation for habitable rooms, light and ventilation for bathrooms, heating facilities or stairway and hall lighting, as required by subparagraphs (a), (b), (c), (d), (e) and/or (f), paragraph 301 of this title; or

(4) Foundations, floors, walls, ceilings, roofs, windows, outside openings, stairs, porches, plumbing fixtures, bathroom floors, or facilities for the drainage and disposal of rainwater not maintained as required by subparagraphs (a), (b), (c), (d), (e) and/or (f), paragraph 301 of this title; or

(5) Shared or common areas not kept in a clean and sanitary condition as required by paragraph 304 of this title; or

(6) Infestation by insects, rodents or other pests when it would be the responsibility of the owner to exterminate such insects, rodents, or pests pursuant to paragraph 309 of this title.

(p) Nuisance which constitutes a serious fire hazard shall mean any of the dangerous conditions described in paragraphs (a) through (g) of section 13-302 of chapter 13 (Fire Prevention Code) of the Code of Ordinances.

(q) Occupant shall mean the person, over one (1) year of age, living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit.

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

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

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

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

(t) Persons shall mean and include any individual; firm, corporation, association, or partnership.

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

(v) Rooming house means any dwelling, or that part of any dwelling, containing one (1) or more rooming units in which space is let by the owner or operator to four (4) or more persons. This term includes, but is not limited to, hotels, motels, group living residential occupancies and dwellings located in the city that house groups including fraternities and sororities that are not located on land owned by educational institutions. This term excludes hospitals, homes for the aged, community residences and health care facilities that are otherwise regulated by state law.

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

(x) Rubbish shall mean combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coke, and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

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

(z) Tenement house shall mean any house or building, or portion thereof which is rented, leased, let or hired out to be occupied, or is arranged or designed to be occupied, or is occupied, as the home or residence of three (3) or more families, living independently of each other, and doing or able to do their cooking upon the premises, and having a common right in the halls, stairways or yards.

(aa) Temporary housing shall mean tent, trailer, or similar structure which is used as human shelter for not more than thirty (30) consecutive days or more than ninety (90) days in any calendar year; provided that such tent, trailer, or similar structure complies with the statutes, ordinances and regulations of the State of Connecticut and the City of New Haven. Nothing is herein intended to prohibit the use of a tent, trailer, or similar structure as a dwelling for more than thirty (30) consecutive days or more than ninety (90) days in any calendar year, if such tent, trailer, or similar structure complies with the provisions of this title and the statutes, ordinances, and regulations of the State of Connecticut or the City of New Haven.

(Ord. of 7-1-57, § 1; Ord. of 9-10-62; Ord. of 2-3-64; Ord. of 6-6-66, § 1-5; Ord. of 4-7-75; Ord. of 1-3-77; Ord. of 11-16-92; Ord. No. 1304, Pt. II(A), 12-17-01)

● **Par. 101. Construction and interpretation of certain words.**

Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," and "premises," are used in this title, they shall be construed as though they were followed by the words "or any part thereof." Whenever the masculine pronoun is used, it shall also mean the feminine pronoun.

(Ord. of 7-1-57, § 1.21; Ord. of 11-16-92)

- **Par. 102. Penalties.**

- (a) Any person who shall violate any provision of this title may, upon conviction, be punished by a fine of not more than ~~one hundred dollars (\$100.00)~~ **two hundred fifty dollars (\$250.00)** pursuant to **Connecticut General Statutes § 7-148(c)(10)(A)** or by imprisonment for not more than thirty (30) days; and each day's failure to comply with any such provision shall constitute a separate violation.
- (b) Any owner of rental property who shall violate any provision of this title related to rental property may, upon conviction, be punished by a fine not to exceed two thousand dollars (\$2,000.00) per violation provided if multiple violations are discovered on the same date, such violations shall be enforced as one violation pursuant to **Connecticut General Statutes § 7-148(c)(7)(A)(i)**. Each day's failure to comply with any such provision shall constitute a separate violation.

(Ord. of 7-1-57, § 11; Ord. of 11-16-92)

- **Par. 102.1 Hearing where an owner of rental property is assessed a civil penalty under Par. 102(b).**

- (a) Where an owner of rental property cited under Par 102(b) claims that the reckless or willful acts of a tenant are the proximate cause of the violation, the owner has the right to appeal the citation and penalty to the Board of Alders.
 1. Written notice advising the owner of the right to appeal will be issued with the citation on a form approved by the Corporation Counsel and Board of Alders. A written notice of appeal must be received, by hand delivery or certified mail, return receipt requested, at the Office of the City Clerk, 200 Orange Street, New Haven, CT 06106 within thirty (30) days of receipt of the citation.
- (b)
 - (1) Upon receipt of such notice of appeal, the Board of Alders, or their designee, may at their discretion adjudicate the appeal by referral to a hearing officer or to such other committee of the Board of Alders as deemed appropriate. The appeal shall be adjudicated pursuant to (2) – (11) of this subsection.
 - (2) A hearing officer may be appointed by the Board of Alders to conduct hearings authorized by this section. Such hearing officer or committee shall work with the enforcement officer in the scheduling of the hearing held pursuant to this chapter. A designated municipal official, other than the hearing officer or a committee member may present evidence on behalf of the municipality. An original or certified copy of the initial notice of violation issued by the issuing

official shall be filed and retained by the municipality and shall be deemed to be a business record within the scope of Conn. Gen. Stat. §52-180 and evidence of the facts contained therein. The hearing officer or committee may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary.

- (3) A person wishing to contest their liability shall appear at the hearing and may present evidence on their behalf. The owner may cross examine any witness and present evidence and argument in opposition to the city's claim.
- (4) Said hearing shall be held not more than thirty (30) days after the receipt of the written notice of appeal, except that written requests for an extension of time may be granted for good cause shown. Notice of the date and time of said hearing shall be provided to the owner or lienholder no later than ten (10) days before the date of the hearing by electronic delivery and/or by certified mail, return receipt requested, as the email or residential address provided by the owner in the written notice of appeal.
- (5) Any party to a hearing may, at their expense, record the hearing. Any party to a hearing may be represented by counsel.
- (6) The hearing officer or committee shall conduct the hearing in the order and form and with such methods of proof as deemed fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. It shall be the burden of the owner to prove by a fair preponderance of the evidence that the reckless or willful acts of a tenant were the proximate cause of the violation to sustain the appeal.
- (7) After the hearing, the hearing officer or committee shall make a written recommendation to the Board of Alders as to whether the appeal should be sustained or dismissed, including the reasons supporting the recommendation.
- (8) If such owner fails to appear, the hearing officer or committee may make a recommendation dismissing the appeal upon a finding of proper notice..
- (9) The Board of Alders will review the recommendation of the hearing officer or committee and vote to approve or reject the recommendation at the next meeting of the full Board of Alders following receipt. If the Board of Alders determines that the owner has proven by a fair preponderance of the evidence that the reckless or willful acts of a tenant were the proximate cause of the violation, the Board of Alders shall issue an order sustaining the appeal and dismissing the violation(s) and enter the order accordingly. If the Board of Alders determines

that the owner has not proven by a fair preponderance of the evidence that the reckless or willful acts of a tenant were not the proximate cause of the violation, the Board of Alders shall forthwith enter a written order dismissing the appeal and shall assess the fines, penalties, costs or fees against such person as provided by Par. 102. (b).

(10) If such assessment is not paid on the date of its entry, the hearing officer or committee shall send by first class mail a notice of the assessment to the owner found liable and shall file, not less than thirty days or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars, against such owner and in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing officer's or committee's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

(11) A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Conn. Gen. Stat §52-259, at a superior court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court. Enforcement of the assessment shall be stayed upon filing of an appeal to reopen the assessment.

(b) Any owner assessed a civil penalty pursuant to this subparagraph shall have a right of appeal on any grounds other than that such violation was proximately caused by a tenant's reckless or willful act as defined in Par. 203.

- **Par. 103. Effect of conflict between title, other provisions.**

In any case where a provision of this title is found to be in conflict with a provision of any zoning, building, fire, safety, health or other ordinance or code of the city, the provisions which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(Ord. of 7-1-57, § 12.1; Ord. of 11-16-92)

- **Par. 104. Permit required for creation of dwelling, rooming unit in existing structure.**

No dwelling unit or rooming unit shall be created within an existing structure or converted, remodeled or altered so as to create an additional dwelling unit or rooming unit unless the enforcement officer has issued a written permit certifying that the plans and specifications for such work indicate that the provisions of this title will be complied with. Said permit shall be issued without a fee and shall be prerequisite to the issuance of any permits for such work by the building department.

(Ord. of 7-1-57, § 14.1; Ord. of 9-10-62; Ord. of 11-16-92)

- **Par. 105. Effective date of provisions.**

The provisions of this title shall become effective thirty (30) days after enactment, except that the provisions relating to the bathtub or shower and running hot water in paragraph 300 and the provisions of paragraph 405 shall become effective on July 1, 1959, and the provisions of this ordinance shall take effect on July 1, 1975.

(Ord. of 7-1-57, § 15; Ord. of 9-10-62; Ord. of 4-7-75; Ord. of 11-16-92)

Editor's note(s)—The term "this ordinance" near the end of this paragraph presumably refers to the 1975 ordinance given in the history note. The ordinance adopted Nov. 16, 1992, was effective Dec. 3, 1992.