

12-0-1416

(Do Not Write Above This Line)

AN ORDINANCE
 BY: *Joyce M. Sheperd*
 COUNCILMEMBER
 JOYCE M. SHEPERD

AMEND SUBSECTION (b)(6) - NOTICE OF NON-COMPLIANCE, OF SEC. 10 ENTITLED "NOTICE OF INSPECTION" UNDER PART III - CODE OF ORDINANCES - LAND DEVELOPMENT CODE >> APPENDIX E - ATLANTA HOUSING CODE OF 1987 >> ARTICLE I. - POLICY AND ADMINISTRATION, SO AS TO ELIMINATE THE REQUIREMENT OF NOTICES FOR REPEAT VIOLATIONS OF HOUSING CODE; **ADOPTED FOR OTHER PURPOSES.** *Substitute*

NOV 19 2012

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred: *10/15/12*
 Referred To: *Public Safety*
 Date Referred: _____
 Referred To: _____
 Date Referred: _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

PSA Committee
 Date *10/30/12*
 Chair _____
 Action Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____

Refer To _____

Committee _____
 Date _____
 Chair _____
 Action Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____

Refer To _____

PSLA Committee
 Date *11/13/12*
 Chair *[Signature]*
 Action Fav, Adv, Hold (see rev. side)
 Other *Other Substitute*
 Members _____

Refer To _____

Committee _____
 Date _____
 Chair _____
 Action Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____

Refer To _____

5 years 1 substitute on 11/20/12
 Members _____
 Action Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____
 Referred To: *[Signature]*

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Consent V Vote RC Vote

CERTIFIED
 NOV 19 2012
 COUNCIL PRESIDENT PROTTEM

CERTIFIED
 NOV 19 2012
Rachel Dandridge Anderson
 MUNICIPAL CLERK

MAYOR'S ACTION
 APPROVED
 NOV 28 2012
 WITHOUT SIGNATURE
 BY OPERATION OF LAW



CITY COUNCIL
ATLANTA, GEORGIA

AN ORDINANCE

12-O-1416

BY COUNCILMEMBER JOYCE M. SHEPERD

**AS SUBSTITUTED BY THE PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE**

AN ORDINANCE TO REPEAL ARTICLE I, SECTION 10, OF THE ATLANTA HOUSING CODE OF 1987, APPENDIX "E" OF THE CITY OF ATLANTA LAND DEVELOPMENT CODE, ENTITLED "NOTICE OF INSPECTION," IN ITS ENTIRETY, SO AS TO ELIMINATE THE REQUIREMENT THAT A NOTICE OF NON-COMPLIANCE BE GIVEN PRIOR TO THE ISSUANCE OF A CITATION; TO AMEND ARTICLE I, SECTIONS 15, 17, AND 19, OF THE ATLANTA HOUSING CODE OF 1987, APPENDIX 'E' OF THE CITY OF ATLANTA LAW DEVELOPMENT CODE, SO AS TO REMOVE REFERENCES TO NOTICES ISSUED IN ACCORDANCE WITH SECTION 10; AND FOR OTHER PURPOSES.

WHEREAS, the Atlanta Housing Code of 1987 has as its purpose to provide for the maintenance of the minimum requirements necessary for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential property in the City of Atlanta; and

WHEREAS, in situations not involving highly hazardous conditions, the Atlanta Housing Code currently requires that a notice of non-compliance be issued to a person found to be in violation of provisions of the Atlanta Housing Code, before any Municipal Court citation may issue; and

WHEREAS, this provision of the Atlanta Housing Code results in the use of Code Enforcement resources, with no resulting Municipal Court action; and

WHEREAS, the requirement that a notice of non-compliance be issued prior to the issuance of a citation is superfluous as Atlanta Police Officers and Code Enforcement Agents have the discretion to issue warnings rather than citations; and

WHEREAS, it is in the public health, safety and welfare to amend the Atlanta Housing Code to eliminate the requirement that a notice of non-compliance be issued prior to the issuance of a citation.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

Section 1: That Article I, Section 10 of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code, and that reads as follows:



Sec. 10. - Notice of Inspection.

- (a) *Issuance and filing of notice.* Within 30 days of any property inspected under this Code for the purpose of determining compliance with the provisions thereof, the director shall determine whether such property conforms to the applicable provisions of this Code and if it does not so conform, shall cause an appropriate written notice to be served upon the owner, operator or occupant. As used in this section and elsewhere in this Code, service of notice upon an owner or operator shall mean service upon such owner or operator or upon that person's designated agent for service. A copy of the notice shall be filed in the office of the bureau of code compliance.
- (b) *Notice of Non-compliance.* If the Director determines that the inspected property does not conform to the applicable provisions of this Code, the notice issued pursuant to Subsection (a) herein shall include:
- (1) An enumeration of conditions which the Director has determined to be in violation of this Code and an enumeration of remedial action required for each violation;
 - (2) A specified period of time, not to exceed ten (10) days from the date of notice within which such remedial action must be commenced.
 - (3) A specified period of time after commencement of such remedial action within which such remedial action shall be completed, including, if necessary, separate reasonable completion dates for remedial action as to separate violations, such periods of time to be determined by the director as those periods of time reasonably required, under all the circumstances then known, for the completion of such remedial action. Notwithstanding this or any ordinance to the contrary, when:
 - (a) a junked vehicle is observed upon private property, a decal shall be affixed to said junked vehicle giving notice that if the junked vehicle is not removed within three days, the city will cause the junked vehicle to be towed or otherwise removed from the property.
 - (b) weeds, rubbish, litter and/or debris is observed upon private property, the notice shall require all remedial action contained therein to be completed within three days.
 - (4) A twenty (20) day period within which the Director shall be provided the names, addresses and telephone numbers of the owner, the operator and all occupants of the subject property and if there exists a designated agent for service of process, the name, address and telephone number of such agent;



- (5) A statement adequate to notify the person served of the unlawfulness of the failure to comply with the provisions of this Code within the time set forth in the notice and the consequences of such failure to comply; including the consequences of the failure to abate conditions constituting a nuisance or rendering a dwelling not in substantial compliance with this Code or unfit for human habitation;
 - (6) *Reserved.*
- (c) *Service of Notice.* The service of any notice under this Section shall be accomplished by any of the following methods:
- (1) By enclosing, directing, stamping and mailing, by certified mail with return receipt requested, a copy of the notice to said person's last known address;
 - (2) By posting a copy of the notice on the door of the person's place of residence or usual place of abode and by enclosing, directing, stamping and mailing by prepaid first class mail, a copy of the notice to said person's address;
 - (3) By delivering personally to said person named in such notice;
 - (4) By leaving a copy at said person's dwelling place or usual place of abode with a person of suitable age or discretion residing therein;
 - (5) By transmitting, by any of the aforementioned means, a copy of the notice to said person's agent authorized by appointment or by law to receive service of process. Provided that, if the person named in such notice actually receives it by any means, such person shall be bound by it. Upon the request of any owner, operator or occupant of the building to whom such notice is not directed, a copy of the notice shall be mailed to such person by prepaid, first-class mail, properly addressed;
- (d) *Knowledge of Issuance of Notice.* A purchaser, transferee, lessee or mortgagee, who prior to such sale, transfer, lease or mortgage has actual or constructive knowledge of the issuance of a notice pursuant to this Section shall be bound by such notice.
- (e) *Required Information.* Within twenty (20) days of receipt of a notice pursuant to Subsection (b) hereinabove, the person named in such notice shall provide to the Director, the names, addresses and phone numbers of the owner, the operator and all occupants of the subject property and of any designated agent for service of process. The name, address and telephone number of the person responsible for maintenance and repair, if any, shall also be provided.



(f) *Notice of Change in Ownership.*

- (1) **Ownership Transfer.** Within thirty (30) days after the transfer of ownership of any property for which a current Notice of Non-compliance is issued, the transferor shall file with the Bureau of Buildings, a notice of such transfer, identifying the property by street name and number and containing the name, address and telephone number of the successor in interest;
 - (2) **Death or Dissolution of Owner.** Within thirty (30) days after the death or dissolution of a person owning property for which a current Notice of Non-compliance is issued, the heirs, executor, administrator or legal representative of the estate or successor shall file with the Bureau of Buildings a notice identifying the property by street name and number and stating the fact of the owner's death or dissolution and the name, address and telephone number, if known, of the successor in interest.
- (g) A Rental Dwelling Unit or Rooming Unit not in substantial compliance with this Code for which a Notice of Non-Compliance is issued shall not be leased, rented or occupied by any person other than the tenant in occupancy at the time the Notice of Non-Compliance is issued; provided that this shall not preclude such tenant, owner or operator from bringing any action or asserting any defense authorized by law, nor shall this preclude the lease or rental of said unit after being brought into substantial compliance.

(h) *Further Violations.*

- (1) The following shall constitute violations of this Code:
 - a. Leasing, rental or allowing occupancy of rental dwelling Units and rooming units not in substantial compliance with this Code to persons other than the tenant in occupancy at the time of issuance of the Notice of Non-Compliance;
 - b. Providing of false information by an owner or operator under Subsection (e) and Subsection (f) (1) herein;
 - c. Failure of an owner or operator to provide or update any information required under (e) and (f) (2) herein; provided that such failure shall not result in a violation if such information is submitted within a reasonable time after notice.
- (2) The Director shall cause a written notice to be sent to any owner or operator who has committed a violation under Subsection (i). Such Notice shall specify the reasons for the violation, shall list any corrective



measures required and the amount of time allowed for corrective action, and shall notify the affected person of the right to appeal.

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

Be repealed in its entirety such as it shall read as follows:

Sec. 10. - Reserved.

Section 2: That Article I, Section 15 of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code, and that reads as follows:

Sec. 15. - Removal and Disposal of Junked Vehicles.

- (a) A junked vehicle constitutes a health hazard and an unsightly nuisance and is subject to removal and disposal. The director may cause for the removal from private property and disposal of junked vehicles whether or not at the request of the landowner or the owner of the junked vehicle. Such removal shall be proceeded by Notice in accordance with section 10(b)(3)(b).
- (b) Removal by the director shall not apply to any junked vehicle:
 - (1) located within the premises of any junkyard or automobile salvage yard complying with all the laws of this state and city relating to the licensing and regulating of motor vehicles or junkyards; or
 - (2) meeting such definition by sole virtue of being inoperable, incapable of being legally operated on the public roads, or not bearing a current registration or a current license plate or a current state required inspection sticker. Such junked vehicles shall still be subject to enforcement action pursuant to section 18
- (c) Once a junked vehicle has been towed or removed from private property, the bureau of code compliance shall notify and provide to the Atlanta Police Department, a description of the vehicle including the vehicle identification number, if visible, and the location from which the vehicle was removed. The police department shall maintain a log identifying such vehicles.
- (d) Removal and disposal of junked vehicles as provided herein may be carried out by private individuals and firms contracted with the city and whose operations



includes the recycling of discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof. Any junked vehicle which has been removed from private property as provided herein shall be disposed of as provided by law.

Be amended such as it shall read as follows:

Sec. 15. - Removal and Disposal of Junked Vehicles.

- (a) A junked vehicle constitutes a health hazard and an unsightly nuisance and is subject to removal and disposal. The director may cause for the removal from private property and disposal of junked vehicles whether or not at the request of the landowner or the owner of the junked vehicle. ~~Such removal shall be proceeded by Notice in accordance with section 10(b)(3)(b).~~
- (b) Removal by the director shall not apply to any junked vehicle:
 - (1) located within the premises of any junkyard or automobile salvage yard complying with all the laws of this state and city relating to the licensing and regulating of motor vehicles or junkyards; or
 - (2) meeting such definition by sole virtue of being inoperable, incapable of being legally operated on the public roads, or not bearing a current registration or a current license plate or a current state required inspection sticker. Such junked vehicles shall still be subject to enforcement action pursuant to section 18
- (c) Once a junked vehicle has been towed or removed from private property, the bureau of code compliance shall notify and provide to the Atlanta Police Department, a description of the vehicle including the vehicle identification number, if visible, and the location from which the vehicle was removed. The police department shall maintain a log identifying such vehicles.
- (d) Removal and disposal of junked vehicles as provided herein may be carried out by private individuals and firms contracted with the city and whose operations includes the recycling of discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof. Any junked vehicle which has been removed from private property as provided herein shall be disposed of as provided by law.

Section 3: That Article I, Section 17 of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code, and that reads as follows:

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

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



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

- (1) Initiate removal and disposal of junked vehicles in accordance with section 15
- (2) Reserved.
- (3) Initiate procedures for court action as provided in section 18
- (4) Initiate in rem proceedings as provided in Article III;
- (5) Extend the compliance time for extenuating circumstances as listed in section 7(e).

Be amended such as it shall read as follows:

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

- (a) It shall be unlawful for an owner, operator, or occupant to fail to comply with any applicable provision of this Code.
- (b) If a ~~written notice~~, placard or a violation of section 22(b), has not been complied with, the director is authorized to take any of the following actions, as appropriate:
 - (1) Initiate removal and disposal of junked vehicles in accordance with section 15
 - (2) Reserved.
 - (3) Initiate procedures for court action as provided in section 18
 - (4) Initiate in rem proceedings as provided in Article III;
 - (5) Extend the compliance time for extenuating circumstances as listed in section 7(e).

Section 4: That Article I, Section 19 of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code, and that reads as follows:



Sec. 19. - Highly Hazardous Conditions.

It shall be unlawful for any owner or operator to allow, or for any occupant to cause the following highly hazardous property conditions, any of which may constitute a nuisance as defined in Section 6 and 12. Notwithstanding any provision of this Article to the contrary, no notice of violation of this Section shall be required prior to initiating procedures for court action as provided in Section 18.

- (a) Roofs, floors or supporting members, including, but not limited to, girders, sills, joists and studs, which show thirty-three percent (33%) or more damage or deterioration or which are of sufficient size or strength to safely support imposed loads;
- (b) Nonsupporting enclosing or outside walls or coverings which show fifty percent (50%) or more damage or deterioration;
- (c) Defective or improperly maintained electrical, heating, ventilation, sanitation or like facilities which endanger or insufficiently protect the health, safety or general welfare of the occupants;
- (d) Means of egress and ingress, which in the determination of the Director, are defective or unsafe, or substantially smaller than the dimensions required by law;
- (e) Vacant Dwellings which are open and unsecured against unforced entry;
- (f) Conditions which, in the determination of the Director, are dilapidated, decayed, unsafe, unsanitary or that unreasonably expose occupants or the general public to illness, disease or physical injury;
- (g) Conditions which in the determination of the Director, unreasonably expose occupants to rain, moisture or cold air;
- (h) Any other condition which, in the determination of the Director, is unsafe, unsanitary or dangerous to the health, safety or general welfare of the occupants or general public.

Be amended such as it shall read as follows:

Sec. 19. - Highly Hazardous Conditions.

It shall be unlawful for any owner or operator to allow, or for any occupant to cause the following highly hazardous property conditions, any of which may constitute a nuisance as defined in Section 6 and 12. ~~Notwithstanding any provision of this Article to the contrary, no notice of violation of this Section shall be required prior to initiating procedures for court action as provided in Section 18.~~



- (a) Roofs, floors or supporting members, including, but not limited to, girders, sills, joists and studs, which show thirty-three percent (33%) or more damage or deterioration or which are of sufficient size or strength to safely support imposed loads;
- (b) Nonsupporting enclosing or outside walls or coverings which show fifty percent (50%) or more damage or deterioration;
- (c) Defective or improperly maintained electrical, heating, ventilation, sanitation or like facilities which endanger or insufficiently protect the health, safety or general welfare of the occupants;
- (d) Means of egress and ingress, which in the determination of the Director, are defective or unsafe, or substantially smaller than the dimensions required by law;
- (e) Vacant Dwellings which are open and unsecured against unforced entry;
- (f) Conditions which, in the determination of the Director, are dilapidated, decayed, unsafe, unsanitary or that unreasonably expose occupants or the general public to illness, disease or physical injury;
- (g) Conditions which in the determination of the Director, unreasonably expose occupants to rain, moisture or cold air;
- (h) Any other condition which, in the determination of the Director, is unsafe, unsanitary or dangerous to the health, safety or general welfare of the occupants or general public.

Section 5: This ordinance shall take effect on February 1, 2013.

Section 6: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

A true copy,

Deputy Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

November 19, 2012
November 28, 2012

RCS# 2404
11/19/12
3:18 PM

Atlanta City Council

12-O-1416

REPEAL COA HOUSING CODE ART. I; SEC. 10
TO AMEND NOTICE OF HOUSING INSPECTION
ADOPT

YEAS: 12
NAYS: 2
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 0

Y Smith	N Archibong	Y Moore	NV Bond
Y Hall	N Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

12-O-1416