

## Chapter 265, HOUSING AND PROPERTY MAINTENANCE

[HISTORY: Adopted by the City Council of the City of Binghamton 12-19-1983 by Ord. No. 201-83 (Ch. 11 of the 1970 Code). Amended 3-17-10 by Local Law 1-2010]

### GENERAL REFERENCES

- Alarm systems -- See Ch. 167.
- Building construction -- See Ch. 200.
- Unsafe buildings -- See Ch. 203.
- Electrical standards -- See Ch. 225.
- Fire prevention -- See Ch. 235.
- Health and sanitation -- See Ch. 259.
- Plumbing -- See Ch. 310.
- Property and building nuisance reform -- See Ch. 315.
- Sewers -- See Ch. 339.
- Sewer use -- See Ch. 342.
- Solid waste -- See Ch. 350.
- Maintenance and use of streets and sidewalks -- See Ch. 355, Art. I.
- Zoning -- See Ch. 410.

### ARTICLE I, General Standards

#### § 265-1. Purpose. [Added 8-15-1988 by Ord. No. 106-88]

The purpose of this code is to establish rules, regulations and enforcement procedures for the maintenance and upkeep of existing housing and property in the City of Binghamton. The code is intended to preserve the City's existing housing stock and to protect the health, safety and welfare of the general public.

#### § 265-2. Word usage; definitions. [Amended 8-15-1988 by Ord. No. 106-88; 10-4-1993 by Ord. No. 138-93; Amended 4-16-07 by Ord. No. 10A-2007; Amended 7-20-09 by Ord. No. 23-2009; Amended 6-7-2004 by Ord. No. 04-57]

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

- A. Whenever the words "dwelling" and "dwelling unit," "rooming house," "rooming unit," "premises" and "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."
- B. Whenever the phrase "any provision of this chapter" is used in this chapter, it shall be construed as though it were followed by the words "or any rule or regulation adopted pursuant thereto."
- C. Whenever the words "Code Enforcement Bureau" are used, it shall be construed to mean or be equivalent to "Director of Code Enforcement and/or Code Enforcement Inspector."
- D. As used in this chapter, the following terms shall have the meanings indicated:

ATTIC -- The space between the top of the uppermost floor construction and underside of the roof.

BASEMENT -- The portion of a building located partly underground with less than 50% of its floor-to-ceiling height below the average grade of the adjoining ground.

BOARD -- The Housing Board of Appeals.

CELLAR -- A portion of a building located partly or wholly underground with at least 50% or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DIRECTOR OF CODE ENFORCEMENT -- The Code Enforcement Officer of the City of Binghamton who is the Chief Administrator of the City of Binghamton's Code Enforcement Bureau.

DWELLING -- Any building, except for temporary housing, which is used or intended to be used for living or sleeping by human occupants.

EMERGENCY SITUATION -- Where the condition of a building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of occupants and/or the general public. Such conditions include, but are not limited to, fire hazards, falling or dilapidated buildings, structures, or any part thereof, loss of significant water, heat, ventilation, or a lack of sanitary conditions.

EXTERMINATION -- The elimination or control of insects, rodents or other pests by eliminating their harborage places or potential harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or any other recognized and legal pest elimination methods approved by the Code Enforcement Bureau.

GARBAGE -- The animal or vegetable waste resulting from handling, preparation, cooking and the consumption of food or any other organic decomposable matter.

GRASS MEDIAN -- The area of land that is located between the sidewalk and the curb of the street.

HABITABLE ROOM or HABITABLE FLOOR SPACE -- A room or an enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes. Areas that shall not be considered habitable space include bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors or public halls, closets, and storage spaces.

HEARING OFFICER -- The Mayor, Executive Assistant to the Mayor, or any member of the City administration or resident of the City of Binghamton designated in writing for that purpose by the Mayor, excluding any member of the Code Enforcement Department.

INFESTATION -- The presence, within and around a dwelling, of insects, rodents or other pests.

MULTIPLE DWELLING -- Any dwelling containing more than two dwelling units.

OCCUPANT -- Any person, over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit, unless otherwise provided.

OPERATOR -- Any person who has charge, care or control of a building, or a part thereof, in which units are let.

OWNER -- Any person who, alone or jointly or with others (1) shall have legal title (including through a land contract) to any dwelling or dwelling unit, with or without accompanying possession thereof, or (2) shall have charge, care or control of any dwelling or dwelling unit as either owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any person thus representing the actual owner according to the definition provided shall be bound to comply with the provisions of this chapter to the same extent were he or she the owner.

PERSON -- Any responsible party, land contractee, individual, firm, corporation, association, partnership or any other similar entity.

PLUMBING -- Includes 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.

RENTAL UNIT -- Any dwelling, dwelling unit, rooming house or rooming unit not solely occupied by the owner.

REPRISAL

- (1) The institution of unreasonable eviction proceedings or other legal remedy relating to the occupant's right of possession; or
- (2) The imposition of an unreasonable rent increase; or
- (3) The willful or negligent curtailment of services required to be given the occupant by law or agreement.

ROOMING HOUSE -- Any dwelling or that part of the dwelling containing one or more rooming units in which space is let by the owner or operator to four or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

ROOMING UNIT -- Any room or group of rooms forming a single habitable unit or intended to be used for living and sleeping. Rooming units shall not contain cooking or kitchen facilities and shall not be used for cooking and eating purposes.

RUBBISH -- Combustible or noncombustible waste material except for garbage. "Rubbish" shall include but not be limited to the residue of burning wood, coal, coke and other combustible materials such as rags, paper, cartons, boxes, wood, excelsior, tree branches, grass and dust.

STRUCTURE -- A combination of materials other than a building that forms a construction that is safe and stable and includes, among other things, stadiums, gospel or circus tents, reviewing stands, platforms, staging, observation towers, radio towers, sheds, storage bins, walls, fences and display signs.

SUPPLIED -- Paid for, furnished or provided by or under the control of the owner or operator.

TEMPORARY HOUSING -- Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities on the same premises for more than 30 consecutive days.

UNOCCUPIED HAZARD -- Any building or part thereof which remains unoccupied for a period of more than six months with either doors, windows or other openings broken, removed, partially boarded or subject to entry; or any building under construction upon which little or no construction work has been performed for a period of eight months or more and which remains open and/or subject to entry.

UNREGISTERED AND/OR UNLICENSED VEHICLES -- Any vehicle, including a tractor and trailer, without a currently valid license plate or plates or which is in either a wrecked, discarded, dismantled, inoperative or abandoned condition and is not in a condition where it may be used on a public highway. An expired inspection sticker or lack of a current inspection sticker shall be presumptive evidence that a vehicle is not in a condition capable of being used on a public highway. Vehicles capable of being driven on a public highway and offered for sale by a automobile dealer duly licensed by the State of New York Department of Motor Vehicles to sell automobiles shall not be considered unregistered and/or unlicensed vehicles when offered for sale at the dealer's place of business as stated in his application for an automobile dealers license to the Commissioner of Motor Vehicles.

### **§ 265-3. Inspection of dwellings.**

- A. The Code Enforcement Bureau is authorized and directed to enter and inspect at all reasonable times, or at such times as may be necessary in an emergency, all dwellings, dwelling units, rooming houses or units, and premises located within the City of Binghamton both to determine whether such dwellings are in compliance with this chapter and to safeguard the health and safety of the occupants and the general public in accordance with Subsection B.
- B. The Code Enforcement Bureau shall enter and inspect a dwelling, dwelling units or premises, either upon request to and with the permission and at the convenience of the lawful owner, or upon the complaint and/or invitation of an occupant, or by an order of a judge of competent jurisdiction directing that the Code Enforcement Bureau shall have access for the purpose of making the inspection. The Code Enforcement Inspector shall, at the time of his or her inspection, leave a copy of the inspection worksheet with the resident of each specific unit so inspected. Where an immediate threat to health or safety is found in a building that affects more than one unit, a copy of the inspection worksheet shall be forwarded to the residents of the units affected.
- C. The Code Enforcement Bureau is authorized to make application to the Binghamton City Court for the issuance of a search warrant in order to conduct an inspection of any premises covered by this chapter where the owner, tenant or occupant refuses or fails to allow an inspection of his or her rental premises and where there is reasonable cause to believe that a violation of this chapter has occurred. The application for a search warrant shall in all its respects comply with the applicable laws of the State of New York.
- D. Nothing in this section, except for provisions concerning emergency inspections, shall be deemed to authorize the Director of Code Enforcement or the Code Enforcement Bureau to conduct an inspection of any premises subject to this chapter without the consent of the owner, tenant or occupant of the premises or without a warrant duly issued by a court of competent jurisdiction.

**§ 265-4. Enforcement. [Amended 10-15-1990 by Ord. No. 114-90; 9-5-2000 by Ord. No. 00-112; Amended 4-16-07 by Ord. No. 10A-2007]**

- A. Whenever the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer determines that there are reasonable grounds to believe there has been a violation of any provision of this chapter or any rule or regulation adopted thereto, he or she shall give notice of the alleged violation to the person or persons responsible according to the procedures set forth in this chapter.

The notices shall:

- (1) Be put in writing.
- (2) Include a specific statement of the reasons why it is being issued with reference to the sections of this chapter deemed to be violated.
- (3) In an emergency situation, the Fire Marshall, Director of Code Enforcement or a Code Enforcement Officer may cause such building, structure or any part thereof to be made safe, remedy, repair or remove the dangerous condition without prior notice to the owner. For this purpose, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer or his/her designee may at once enter such building, structure, or land on which the violation stands, or abutting land or structure, with such assistance and at such cost as may be necessary. The Marshall, Director of Code Enforcement or a Code Enforcement Officer may order that adjacent structures be vacated and may protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a public or private way. The costs of making the building, structure, or any part thereof, safe, to remedy, repair, or remove the dangerous condition shall be a liability of the property owner, who will be billed for expenses incurred consistent with the provisions outlined in § 265-13J(2) of this chapter.

(a) Whenever the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer has determined that an emergency situation exists and causes repairs or other costs to the owner without notice, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer will give the owner written notice of the action taken and the costs thereof within three business days of the emergency situation. The owner may request a hearing before the Office of Corporation Counsel to challenge the emergency situation or the costs. The hearing shall be held within fifteen business days of receiving written demand for the same. The rules of evidence prevailing in courts of record shall not be controlling in the hearings held pursuant to this chapter. Such decision may be appealed as an administrative decision under New York Civil Practice Laws and Rules, Article 78, within thirty (30) days of such written decision by the hearing officer.

- (4) Except where major repair work is required, establish the following time limits for remedial action:

- (a) In the case of high grass complaints pursuant to § 265-13.H of this chapter, the responsible part shall have 48 hours to correct the violation.
- (b) In the case of violations of this chapter for which specific compliance time limitations are cited, those limitations shall apply.
- (c) In the case of trash, litter, or garbage violations pursuant to § 265-13.h(1)(c) or § 265-13.I(5), the responsible party shall have 24 hours of the owner, property manager, or occupant receiving notice of such violations to correct the violation.
- (d) The accumulation of snow and ice on sidewalks must be removed within 24 hours after the accumulation of such snow and ice ceases

- (e) In the case of repairs that require immediate attention, but do not constitute an “emergency situation”, the owner, property manager, or occupant shall have 24 hours from the date notice of such violation is received to commence work to correct, alleviate or eliminate the violation and 72 hours to reasonably complete such work.
  - (f) All other violations shall be repaired within five days of the owner, property manager, or occupant receiving notice of such violations except when, for good cause shown, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer grants an extension of time in writing.
- (5) The notice of violation will be served upon, or sent by mail to, the owner, property manager, or occupant, as the case may require. Notice shall be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery or three days in Broome County or five days for other locations after service by first class mail to the address listed on the real property assessment, the registered property manager, if any, and to the subject real property. The City may also post violations on the City’s website for provide additional notice to owners, property managers, and occupants. However, the City’s failure to post such violations on the City’s website is not required and will not constitute a defense to any enforcement proceeding or collection of costs and expenses.
  - (6) Have a copy retained on file in the Code Enforcement Bureau for inspection by the owner, property manager, occupant, or the general public.
  - (7) Notices may also contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.
- B. Should any violations for which a person is cited fail to be corrected within the required time period, the Code Enforcement Director shall be authorized to issue an appearance ticket for such violation, returnable in City Court.

**§ 265-5. Adoption of rules and regulations; applicability. [Amended 8-15-1988 by Ord. No. 106-88; 7-7-1997 by Ord. No. 88-97; 4-20-1998 by Ord. No. 98-44]**

- A. The Director of Code Enforcement of the City of Binghamton shall adopt such rules and regulations as may be deemed necessary for the enforcement of the provisions of this chapter during normal working hours and at such time as may be necessary in an emergency.
- B. Within the City of Binghamton, this chapter shall apply to:
  - (1) Lots, plots or parcels of land which are vacant or upon which buildings are located and used for dwellings, mixed occupancy, commercial, industrial or storage uses, or whether occupied or vacant.
  - (2) Residential buildings, including private and multiple dwellings unless specifically excluded.
  - (3) Buildings of mixed occupancy, occupied in whole or in part.
  - (4) Commercial, industrial and storage buildings.
  - (5) Vacant residential, mixed occupancy, commercial, industrial and storage buildings.
  - (6) Residential, mixed occupancy, commercial, industrial and storage buildings which are under construction or demolition. Included here are buildings not completed but to the extent that a nuisance or practice exists or is occurring which is a disturbance to the health, safety or welfare of the general public.
  - (7) Accessory structures, accessories to dwellings, commercial, industrial or vacant buildings.
  - (8) Telephone, telegraph or electric poles in the City, fences, sidewalks and public highways.
- C. The provisions of the Plumbing Code (Chapter 310, Article II), the Fire Prevention Code (Chapter 235), the Zoning Ordinances of the City of Binghamton (Chapter 410), the Multiple Residence Law

of the State of New York, where applicable, the Electrical Code of the City of Binghamton (Chapter 225), along with the National Electrical Code, Chapter 163 of the Code of the City of Binghamton, and any other New York State or local law, ordinance or regulation issued by the proper authorities thereof shall be applicable to all installations, alterations and repairs to buildings, and materials, assemblies and equipment utilized in connection therewith, and shall be enforced through and by the procedures provided herein. All repair and construction work shall be done in a manner acceptable to the Code Enforcement Bureau.

- D. Upon motion of Corporation Counsel, and upon a finding by the Court that justice so requires, the Court may assess an appropriate fine in an amount less than \$1,000 and/or may sentence a defendant to an appropriate conditional discharge in lieu of jail.

**§ 265-6. Rental registration established. [Amended 12-19-2011 by Perm. L.L. 11-4; Amended 6-6-2012 by Perm. Ord. 12-40; Amended 4-3-2013 by Perm Ord. 13-27; Amended 12-4-2013 by Ord. 13-96].**

- A. Intent. In order to properly administer and inspect residential rentals in the City of Binghamton, the City hereby creates a Rental Registration Program for all “Rental Property” and “Rental Units” as defined below, except for a “Dwelling, Two-Unit,” Rental Properties (i.e. two-family houses) where one unit is occupied by the Owner.
- B. Definitions.
- (1) Whenever the words “Dwelling”, “Dwelling Unit”, “Premises” and “Structure” are used in this section, they shall be construed as though they were followed by the words “or any part thereof”.
  - (2) Whenever the phrase “any provision of this Chapter” is used in this section, it shall be construed as though it was followed by the words “or any rule or regulation adopted pursuant thereto.”
  - (3) As used in this section, the following terms shall have the following meanings:

**BEDROOM** – Any room or space used or intended to be used for sleeping purposes, including, but not limited to, any room with an adequate area to accommodate a bed and other furniture associated with a bedroom; privacy (e.g., a door); an emergency exit (e.g., a window); and may include a closet (a closet implies a bedroom, although lack of a closet does not preclude any room or space from being considered a bedroom if it meets the other criteria).

**DWELLING or DWELLING UNIT** –

- (a) A building or portion thereof which meets the following criteria:
  - [1] Designed, used or intended to be used exclusively as year-round and complete living quarters for one family or household.
  - [2] Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
  - [3] Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.
- (b) For purposes of this section a “Dwelling” includes a Dwelling, Earth Sheltered; Dwelling Manufactured Home; Dwelling Modular; Dwelling, Multi-Unit; Dwelling, One-Unit; Dwelling, Townhouse; Dwelling, Two-Unit; as those terms are defined in § 410-5.
- (c) For purposes of this section a “Dwelling” does not include a Hotel, Motel, Rooming House, Dormitory, Fraternity, Sorority, Mobile Home, Tourist Home or similar building, as those terms are defined in § 410-5.

**LOCAL AUTHORIZED REPRESENTATIVE** – A person (or entity) designated by the Owner to manage Real Property or Rental Unit(s). The Local Authorized Representative may be a Owner or a

third party. The Local Authorized Representative must maintain a home or business address in Broome County or a contiguous county in New York. The Local Authorized Representative shall be authorized to conduct all business related to the Rental Property or Rental Units(s) and is authorized to accept service of all notices regarding any action or proceeding.

OWNER – Any person who, alone or jointly or with others: (1) shall have legal title (including through a land contract) to any Dwelling or Dwelling unit, with or without accompanying possession thereof, or (2) shall have charge, care or control of any Dwelling or Dwelling unit as either Owner or agent of the Owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the Owner. Any person thus representing the actual Owner according to the definition provided shall be bound to comply with the provisions of this section to the same extent were he or she the Owner.

RENTAL PROPERTY – The physical structure wherein one or more Rental Units are located.

RENTAL UNIT – Any Dwelling used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes .

C. Registration required.

- (1) Every Owner of a Rental Property or Rental Unit(s) is required to register each Rental Property/Rental Unit(s) and pay all fees in accordance with this section, except, (i) the Owner of a Two-Unit Dwelling where the Owner occupies one such Dwelling Unit: (ii) the Unites States, State of New York, Broome County or the City of Binghamton, (iii) any Mortgagee in a foreclosure proceeding pending sale, unless such Mortgagee is collecting rents for the Rental Property/Rental Unit, or (iv) any property registered as a vacant property pursuant to § 265-14.
- (2) The Owner will complete and file with the City Clerk a Rental Registration Application. The Rental Registration Application shall include, but shall not be limited to, the following information for the Rental Property/Rental Unit(s):
  - (a) Street address and Tax Parcel Identification Number
  - (b) Ownership information, including the Owner’s name, home or business address (post office boxes are not acceptable), telephone number, and email address. If the Owner is a general or limited partnership, limited liability company, or corporation, the Rental Registration application must include the names, home or business addresses, telephone numbers and email addresses of all of the partners, managers, members, or officers.
  - (c) Rental Property Information:
    - [1] Number of Rental Units;
    - [2] Number of bedrooms in each Rental Unit;
    - [3] Number of bathrooms in each Rental Unit;
  - (d) A statement, list or dates of any certificates of occupancy, building permits, certificates, and/or approvals in the Owners’ possession authorizing the number of Rental Units, bathrooms, bedrooms and structural medications or additions at the Rental Property. The City may request copies of such documents.
  - (e) The Application will include an opportunity for the Owner to consent to a Triennial Inspection, as provided in § 265-6.I. below. If the Owner elects not to consent to such Triennial inspection, the application will advise the Owner that the City may apply for a warrant for such inspection.
  - (f) The Owner must designate a Local Authorized Representative. Notwithstanding the foregoing, any partner, manager member, or officer, listed in section “(b)” above is authorized to accept service of any notices regarding any action or proceeding.

- (3) A separate Rental Registration Application must be submitted for each Rental Property.
  - (4) Incomplete Rental Registration Applications shall not be accepted and will be returned to the Owner by the City Clerk.
- D. Fees. The Owner will pay a Rental Registration fee in the amount of fifty (\$50) dollars for up to two Rental Units and twenty-five (\$25) dollars for each additional Rental Unit. The Rental Registration fee is non-refundable. The fee for the initial inspection, see §265-6.J(6) below, shall be included in the Rental Registration Application fee
- E. Record of Rental Registration.
- (1) Upon compliance with this section and the payment of all fees, the City Clerk shall issue a Record of Rental Registration. The issuance of a Record of Rental Registration confirms that the Rental Property/Rental Unit(s) has been registered. The Record of Rental Registration shall state in bold print:

**This Record of Rental Registration is subject to confirmation of all registration information with public records, a health and safety inspection, and compliance with all building and zoning laws and regulations. Upon compliance with all the foregoing, the City will issue a Certificate of Compliance. The City shall maintain a database providing such information for each Rental Property/Rental Units.**

- (2) The Record of Rental Registration will be valid for three (3) years from the last day of the month it is issued. The Owner must re-apply and pay the required fee for a Record of Rental Registration every three (3) years.
  - (3) The Owner must post the Record of Rental Registration, or a photocopy thereof, in at least one common area accessible to all tenants.
- F. Confirmation, revocation and modification.
- (1) If the information in the Rental Registration Application is (i) not consistent with existing conditions (ii) not consistent with public records, (iii) the Rental Property/Rental Unit(s) do not pass a health and safety inspection, or (iv) the Rental Property/Rental Unit(s) is denied a Certificate of Compliance after review of applicable building and zoning laws and regulations, the City Clerk may revoke the Record of Rental Registration. Prior to revocation, the City will give the Owner written notice of the violation and an opportunity to cure such violation within ninety (90) days
  - (2) Notwithstanding the foregoing, nothing herein shall limit the Office of Building Construction, Zoning and Code Enforcement from issuing a notice of violation for building and zoning laws and regulations and prosecuting same pending such ninety (90) days.
  - (3) Revocation of a Record of Rental Registration shall constitute a violation of this Ordinance.
  - (4) A Record of Rental Registration or the public record may be modified if it is determined that a discrepancy between the existing conditions and the public record is a clerical error.
- G. Change of Owner information or ownership.
- (1) The Owner shall notify the City Clerk in writing if there is a change in Owner contact information or a change in the Local Authorized Representative within thirty (30) days of said change.
  - (2) The Record of Rental Registration is not transferable. If the Rental Property is transferred, the new Owner must submit a complete Rental Registration Application within thirty (30) days of the date the deed transfer is recorded with Broome County. A new Record of



Rental Registration will be issued for the term remaining on the existing Record of Rental Registration Permit.

- (3) Failure to notify the City Clerk of either a change of ownership information or change of ownership shall constitute a violation of this Ordinance.

#### H. Implementation, effective dates.

- (1) This section shall be effective beginning May 1, 2013, for the Urban Overlay District as described in Local Law No. 5 of 2011 Permanent No. LL11-5 adopted on December 19, 2011. Owners in the Urban Overlay District must register their Rental Property/Rental Unit(s) as required by this section on or before September 30, 2013.
- (2) This section shall be effective beginning January 1, 2014, for all other zoning districts in the City. Each Owner must register Rental Property/Rental Unit(s) as required by this section on or before such deadlines as the City Clerk may provide by dividing notices to register by zoning districts, water districts, or such other mechanism to provide for an orderly initial registration process through December 31, 2014.
- (3) Subsequent to the initial registration process as required in paragraphs (1) and (2) above, the Record of Rental Registration will be valid for three (3) years from the last day of the month it is issued and must be renewed as required by § 265-6.E.(2) above.

#### I. Triennial Inspection

- (1) In addition to the inspections required by § 265-3, *Inspection of Dwellings*, all Rental Property/Rental Unit(s) subject to this section are to be inspected at least once every three (3) years.
- (2) Inspections will be consistent with the NYS Uniform Fire Prevention and Building Code and will also include an inventory of Rental Units, bathrooms, bedrooms, and other improvements, alterations, or structures for comparison with public records and zoning compliance.
- (3) Nothing herein relieves an Owner from obtaining required permits or approvals for any improvements, alterations, or structures and from complying with zoning and other applicable laws. The NYS Uniform Fire Prevention and Building Code inspection is for health and safety issues only. Such inspection is not an approval of any improvements, alterations, or structures constructed without a building permit. Such inspection does not constitute compliance with the Zoning Ordinance of the City of Binghamton. Until all building and zoning issues, including compliance with functional family, are resolved no Certificate of Compliance will be issued.
- (4) Upon confirmation of consistency with public records, compliance with all health and safety, building and zoning laws and regulations, the Office of Building Construction, Zoning and Code Enforcement will issue a Certificate of Compliance.
- (5) The results of the NYS Uniform Fire Prevention and Building Code inspection and Certificates of Compliance will be maintained on a database for each Rental Property/Rental Unit(s).
- (6) The fee for the initial inspection is included in the Rental Registration fee. If a violation is noted at the initial inspection, the Owner shall have an opportunity to remedy such violation by the next inspection. If the violation is not remedied by the second inspection, then a fee in the amount of \$50 will be charged for each additional inspection. If an Owner, Local Authorized Representative, or tenants fails to appear for a scheduled inspection, then a fee in the amount of \$50 will be charged for each additional inspection. If an Owner fails to pay the

fee for additional inspections within thirty (30) days after written demand for same, then such amount shall be a lien against the Rental Property and may be collected in the same manner as real property taxes.

- J. Violations. It shall be a violation of this Ordinance (i) if the Owner fails to register any Rental Property/Rental Unit(s); (ii) a Record of Rental Registration is revoked; or (iii) the Owner fails to notify the City Clerk of any change in ownership information or ownership; then any person or entity convicted of such violation will be liable for a fine of \$250, plus payment of the fees for Rental Registration and inspection, if any, for a first offense; \$500, plus payment of the fees for Rental Registration and inspection, if any, for a second offense within one year of the first offense; and \$1,000, plus payment of the fees for Rental Registration and inspection, if any, for each offense thereafter within one year of the first offense. Each violation for each Rental Property shall constitute a separate offense.

**§ 265-7. Responsibilities of owners. [Amended 8-15-1988 by Ord. No. 106-88]**

No individual shall occupy as owner-occupant or let to another for occupancy any rental unit for the purpose of living unless the rental unit complies with all the applicable provisions and requirements of this chapter.

- A. The owner of a rental unit shall be responsible to keep every part of a dwelling and the lot on which it is situated in good repair, clean and free from vermin, rodents, dirt, filth, garbage and other materials dangerous to health (see § 265-15F).
- (1) No owner or operator shall cause a dwelling to be sprayed in a manner or with a substance which is inconsistent with state or federal environmental standards for pesticide use in dwellings.
  - (2) Each occupant whose dwelling is to be sprayed shall be given 48 hours' written notice of the owner's or operator's intention to spray; said notice shall set forth the brand, chemical and/or generic name of the pesticide to be used, as well as the possible consequences of said use, and the precautions which should be taken regarding children, the aged, the infirm, pregnant women, household pets, household plants, food and household goods. Warnings on labels or from manufacturers' warnings will satisfy this requirement.
- B. The owner or operator of a rental unit shall be responsible to maintain all required and supplied facilities and services and all other pieces of equipment in good repair, free from defects, in a clean and sanitary fashion, in good working condition, and operable at all times except in emergencies and for repairs.
- C. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter or supplied to be removed from or shut off from or discontinued from any occupied rental unit except for temporary interruption as may be necessary while actual repairs are in progress, or during emergencies.
- D. No owner or operator shall cause to be rented any dwelling unit for which the occupant pays for all or part of his or her utilities unless said utility service serves only the occupant's unit and is separately metered.
- E. No owner shall cause utilities to be terminated from any dwelling of two units or more unless the owner has provided each rental unit with separate utility services and meters for each such utility to be terminated.
- F. No owner or operator shall cause any utility service which is in his or her name or for which he or she is responsible to be terminated from any dwelling without first giving the occupants of each such dwelling unit notice in writing of 60 days or the duration of the lease, whichever is longer, of his or her intention to terminate service.

- G. All rental housing property owners or agents thereof not residing in said building shall have on file with the Code Enforcement Bureau the name of a person residing in Broome County who can be contacted throughout the calendar year when the owner is not available in cases of emergency.

**§ 265-8. Responsibilities and protection of tenants. [Amended 8-18-1997 by Ord. No. 127-97]**

In addition to any other responsibilities of occupants referred to in this chapter, the occupants shall be required to comply with these provisions:

- A. Maintenance of property in sanitary condition.
  - (1) Every occupant of a dwelling or a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit or premises which he or she occupies and controls.
  - (2) None of the responsibilities of occupants specified in this section shall relieve the owner of his or her responsibility to maintain those parts of a rental unit which are part of the permanent or semi permanent construction of the unit or dwelling in whole or in part in a clean, orderly and sanitary condition.
  - (3) The Department of Public Works shall be authorized to enter and clean the property found to be in violation of § 265-9 of this chapter or Chapter 350, Solid Waste, Article II, Littering, of this Code so as to bring it into compliance with all applicable standards and bill the cited code violator for the reasonable cost of such work.
- B. Liability for violations.
  - (1) Every occupant of a dwelling unit shall be liable for a code violation as well as for any damage caused by his or her own willful act, omission, assistance, or negligence or that of any member of his or her family, or household guests if such damage results in, or contributes to, a violation of the Code of the City of Binghamton.
  - (2) In addition to any other penalty provided by law, a judge may, at the time of sentencing, make restitution pursuant to Subsection B(1) of this section a condition of the sentence. If such restitution is ordered, except for good cause shown, it shall be paid within 30 days of the date of the sentence.
  - (3) Willful failure to comply with such restitution order shall result in a term of imprisonment not to exceed 15 days, or community service not to exceed 100 hours, or both such imprisonment and community service.
  - (4) Nothing in this section shall be interpreted so as to diminish any other lawful remedy to recover for damages.
- C. Every occupant of a dwelling unit shall keep all plumbing, cooking, electric, and all other fixtures and facilities required by this chapter in a clean and sanitary fashion and shall also be responsible for the exercise of reasonable care in the proper use and operation. This liability on the part of the occupant shall not relieve the owner by law except in cases where the defect is caused by the willful act, assistance or negligence of the occupant, any member of his or her family or household or guests.
- D. Every occupant of a dwelling unit shall be responsible to limit the occupancy of that part of the premises which he or she occupies or controls to the maximum permitted by this chapter and other ordinances. The Director of Code Enforcement shall issue a thirty-day notice to correct this situation as a prerequisite to any other enforcement provisions in this chapter.
- E. Every occupant shall keep exits from his or her dwelling unit clear and unencumbered.
- F. Reprisal against occupants.

- (1) No owner, occupant, contractee, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part shall threaten to or take reprisal against any occupant who has not committed a breach of the lease of contract of rental, for reporting in good faith of the existence of any violation of the provisions of this chapter or any other applicable laws, statutes, ordinances or regulations, or for, in good faith, availing himself or herself of any legal remedy to secure or enforce rights under his or her lease or agreement, or provided by law.
- (2) No owner, occupant, contractee, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part thereof shall threaten to or take reprisal against any occupant who lives in a dwelling or dwelling unit where the Code Enforcement Bureau has initiated action by giving notice to the owner or persons responsible for the dwelling because the Bureau believes there has been a violation of any provision of this chapter.
- (3) No owner, occupant, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part shall threaten to take reprisal against any occupant who has exercised any of his or her rights as described in this chapter.
- (4) Receipt of notice to quit the dwelling or an unreasonable rent increase without adequate cause within 120 days after the above occupant or someone in his or her behalf or for his or her benefit (including the Code Enforcement Bureau) has made a report or if the occupant himself has availed himself of remedies against the owner provided by law shall create a rebuttable presumption that the notice to the occupant is a reprisal against the occupant for making a report or complaint or for having availed himself or herself of the remedies against the owner as provided by law.
- (5) The defense of retaliatory eviction or reprisal may be raised by the occupant in any eviction action, summary proceeding or other action relating to the right of the occupant to remain in possession of the premises.

G. Payment for repairs.

- (1) Any legal occupant of a rental unit acting alone or together with other legal occupants in a rental unit may contract and pay for repairs to his or her rental unit in accordance with the provisions outlined in this section when there is a violation or violations in his or her rental unit declared either to:
  - (a) Constitute an emergency situation by the Director of Code Enforcement or hearing officer pursuant to the provisions outlined in § 265-4 of this chapter; or
  - (b) Be in violation of any applicable code enforced and actually cited by the Code Enforcement Bureau.
- (2) Any payment made for repairs shall be deductible from rent, provided the following provisions have been substantially complied with by the legal occupant or occupants or his or her or their agent:
  - (a) The owner or his or her agent has been sent notice of the emergency situation or of the appropriate violation.
  - (b) In the case of an emergency situation, the order notice has been delivered by the Code Enforcement Bureau and 24 hours have passed after written notice was delivered to the owner or his or her agent without completion of repairs or commencement of repairs of the violations by the owner.
  - (c) In the case of any other cited violation, the notice has been delivered by the Code Enforcement Bureau and the allowed reasonable time to correct the violations has passed after written notice was delivered to the owner or his or her agent without completion of repairs or commencement of repairs of the violations by the owner.
- (3) Deduction for cost of repair work and materials.

- (a) When a legal occupant or group of legal occupants do not hire an outside contractor, they may deduct cost for materials.
  - (b) If a legal occupant or a group of legal occupants hire an outside contractor to perform repairs, said legal occupants may deduct charges for materials and labor, provided that reasonable efforts are made to have the repair work done by qualified workmen at prevailing rates.
  - (c) Legal occupants must receive an itemized bill from the person, firm or corporation from whom labor or materials are purchased.
- (4) The maximum amount of money an individual legal occupant may deduct for repair work under the provisions of this section shall be \$1,000 or the sum of two months' rent, whichever is greater. The maximum amount two or more legal occupants acting together may deduct for repair work from their combined rents under the provisions of this section shall be \$3,000 or the sum of three months' rent, whichever is greater.
  - (5) No owner or agent shall be entitled to recover any amounts in damages from any person, firm, corporation or employee who attempts in good faith and acts reasonably in providing services to carry out the intention of this section except damages arising out of gross negligence.
  - (6) The remedy provided in this section shall not be exclusive, and a court may provide other relief as may be just and proper in the circumstances.
  - (7) Any agreement by a legal occupant of a rental unit waiving or modifying his or her rights set forth in this section shall be void and contrary to the provisions of this chapter.

**§ 265-9. Minimum space requirements.**

- A. Every dwelling unit shall contain a minimum of 150 square feet of habitable floor space for the first occupant and at least 100 additional square feet of floor space for each additional occupant.
- B. In every dwelling unit of two or more rooms, every room occupied for sleeping shall:
  - (1) For one occupant, contain a minimum of 70 square feet of floor space.
  - (2) For two or more occupants, contain a minimum of 50 square feet of floor space per occupant.
- C. Every habitable room shall have a ceiling height of at least seven feet in at least 50% of the floor area. In cases where the ceiling height is less than three feet, the floor area underneath shall not be considered in determining maximum permissible occupancy.
- D. No basement shall be used as a habitable room unless:
  - (1) The floors and walls are impervious to leakage of underground and surface water and are insulated against dampness;
  - (2) The total window area in each room is equal to at least 1/10 of the floor surface area of the room;
  - (3) The total window area is located entirely above ground;
  - (4) The window can be opened for ventilation or there is some other divide that affords adequate ventilation that has been approved by the Code Enforcement Bureau; and
  - (5) All habitable space is protected from furnaces, hot water heaters or other plumbing fixtures by the installation of structures to separate these fixtures from the habitable space.
- E. No cellar space shall be used as or considered habitable space.

F. No attic shall be used as habitable space unless it meets with the applicable provisions of the New York State Fire Prevention and Building Code.

G. In this section, each occupant 15 years of age and older shall be counted and calculated as one person; children under 15 shall be 1/2 a person; and infants up to one year shall not be counted.

**§ 265-10. Fire safety and security. [Amended 8-15-1988 by Ord. No. 106-88; Amended 12-4-2006 by L.L. No. 2-2006]**

A. Smoke detectors.

(1) All owner-occupied and rental units shall be equipped with a smoke detector system or other fire protections that are adequate to give the occupants reasonable notice to exit safely in the event of a fire.

(2) For the purpose of this section, "adequate" shall mean at least one UL-approved smoke detector per bedroom, one outside each sleeping area, and on all levels of the building.

B. Means of egress.

(1) All owner-occupied and rental units shall have at least one safe, unobstructed means of egress leading to safe and open space at ground level.

(2) For the purpose of this section, "safe" shall mean an egress that has an adequate number of handrails properly situated and installed, is adequately lighted, and is equipped with at least one smoke detector on each stairway landing, or more, or other fire protections that are adequate to give the occupants reasonable notice to exit safely in the event of a fire.

C. In every multiple dwelling three or more stories in height, there shall be at least two independent means of egress accessible on the same story from each apartment or suite. In lieu of a second means of egress, a sprinkler system may be installed in the public halls and stairs.

D. Every owner of every rental unit shall be responsible to ensure that each unit is safe and secure by providing a lock for each door leading directly into each unit and by providing that all first-floor and basement windows are not capable of being opened from the outside. All locks shall be attached to a door that is in good repair, and the key to the lock of a unit must be given to the occupant of the unit.

E. Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted to dwelling occupancy and containing four or fewer units shall be supplied with conveniently located light switches which control an adequate lighting system that may be turned on when needed.

F. All two-family structures three or more stories in height must have fire-retardant cellar ceilings and, in cases where the attic area is used solely as a habitable unit, have two independent means of egress. In lieu of a second means of egress, a sprinkler system may be installed in the public halls and stairs.

**§ 265-11. Plumbing and water facilities.**

A. Every plumbing fixture required and referred to in this chapter shall be connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code (Chapter 310, Article II) and ordinances of the City of Binghamton.

B. Every dwelling unit shall have supplied water heating fixtures which are properly installed to both hot and cold water lines and which are capable of heating water to at least 120° F. to permit an

adequate amount of water and water pressure to be drawn at every refixture in each rental and dwelling unit.

- C. Every dwelling unit shall contain amongst its rooms which afford privacy, by means of an operable door or a flush water closet, a lavatory basin, and a bathtub or shower. However, a lavatory basin may be omitted if existing structural conditions preclude installation.
- D. Every dwelling unit shall contain a kitchen sink.
- E. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good, sanitary and working condition, free from defects, leaks and obstructions.
- F. Every bathroom and water closet compartment converted or installed after the effective date of this chapter shall comply with the light and ventilation requirements for habitable rooms contained in this chapter.
- G. Every water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and to permit it to be kept clean and sanitary.

**§ 265-12. Light, ventilation, electricity and heat. [Amended 9-15-1988 by Ord. No. 106-88]**

- A. Every habitable room shall have a minimum of one or more windows or skylights facing directly to the outdoors that are equal to at least 1/8 of the floor surface of the room and are able to be easily opened.
- B. A window shall not be deemed to face directly outdoors or be included as contributing to the required minimum total window area whenever walls or other portions or structures face the window and are located within three feet from the window and extend to the ceiling.
- C. Every habitable room of every dwelling or rental unit shall either possess at least one electrical receptacle for every 20 linear feet of the total distance around the room as measured horizontally along the floor line of the wall type.
- D. Every outlet and fixture shall be properly installed and connected to a source of electric power in a safe manner.
  - (1) Overcurrent protection. Fuseholders for plug fuses of 30 amperes or less shall not be installed or used unless they are of the type "S" with the adaptor inserted, or of the type "S" construction. Fuses or circuit breakers shall not exceed the wire (conductor) capacity of the circuit.
  - (2) There shall be at least one lighting circuit for each 500 square feet of floor space and at least one circuit for appliances which is separate from lighting circuits. If only one lighting circuit is in existence, all new additional outlets shall be installed on a new circuit or circuits.
  - (3) Electrical fixtures, devices, wiring and systems shall be maintained in safe working condition in a manner which will avoid a potential source of ignition or shock. Deteriorated materials and equipment shall be removed and replaced as may be required.
  - (4) Panel boards (fuse/circuit breaker boxes) shall be kept free from encumbrances and shall be accessible at all times.

- E. In every rental unit, every occupant shall have access to his or her disconnecting means and overcurrent protection at all times, including their utility meters, furnace and hot water tanks, wherever located at all times.
- F. Heating facilities.
  - (1) In the absence of a written contract or an agreement to the contrary, the owner or operator shall be responsible for supplying heating facilities which are capable of safely and adequately heating every room in every rental unit to an average minimum temperature of 68° F. when the outside street temperature is below 55° F.
  - (2) The room temperature shall be measured from at least two distinct locations in the rooms at a distance of three feet from the floor level.
  - (3) Timing devices, or the use of timing devices, which cause the temperature within a dwelling unit to fall below the minimum temperature set both in Subsection F(1) shall be prohibited.
- G. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide entry for rodents shall be supplied with a screen or another similar device to prevent their entrance.
- H. From May 1 to October, entrances to residential buildings (other than single-family owner-occupied) shall be provided with a minimum of one self-closing device or screen per room. Windows and other openings, including doors used for ventilation, shall be appropriately screened.
- I. Upon receipt of notice from utility companies that they intend to shut off service to a rented apartment(s) due to lack of payment by the landlord/property owners responsible for said service, the Code Enforcement Bureau will send a notice to the landlord/property owner advising that the discontinuance of utility service to occupied unit(s) without proper notice (see § 265-7F) is a violation of this code. Should a final notice of the intent to discontinue service be received, an appearance ticket shall be issued by the Code Enforcement Bureau to said offender. Should service be discontinued, an emergency order will then be issued.

**§ 265-13. Minimum exterior and interior requirements. [Amended 9-15-1988 by Ord. No. 106-88; 10-15-1990 by Ord. No. 114-90; 6-2-1997 by Ord. No. 78-97; 12-15-2003 by Ord. No. 03-130; Amended 6-7-2004 by Ord. No. 57-2004; Amended 4-18-2005 by Ord. No. 05-25; Amended 7-17-2006 by Ord. No. 29-2006; Amended 4-16-07 by Ord. No. 10A-2007; Amended 7-20-09 by Ord. No. 23-2009]**

- A. Interior surfaces.
  - (1) All interior walls, floors, ceilings and other interior surfaces, including but not limited to trims and sills, in all rental units and public areas shall be free from any defects such as serious leaning, buckling, sagging, cracks or holes that cause the surfaces to be unsanitary, unsafe, or a threat to the normal use and occupation of these areas.
  - (2) All interior surfaces shall be painted or covered with acceptable covering whenever necessary to keep the surfaces sanitary and free from any and all defects.
- B. Every foundation, floor, wall and ceiling shall be weathertight and rodentproof; shall be capable of affording privacy; and shall be kept in good repair. Ceilings, walls, floors and all public areas shall be free from any serious defects such as severe bulging or leaning, large holes, loose surface material, severe or noticeable movement under normal stress, and missing parts or other serious damage.
- C. All exterior wall structures, doors, basement hatchways, and windows shall be maintained to prevent excessive heat loss during the winter months by the installation of insulation, weather stripping, or other devices reasonably calculated to prevent excessive loss. Where excessive heat loss is



preventable by the use of other methods than permanent storm windows or factory-produced energy efficient windows, the property owner shall initiate a request to the Housing Board of Appeals. It shall be the responsibility of the property owner to demonstrate that the proposed solution shall be compliant with state fire and building codes and demonstrate sufficient insulating value without the loss of minimum ventilation and provide access to the exterior in cases of emergency. If the tenant pays for the heat, the storm windows shall be provided from October 1 to May 1.

- D. The roof structure shall be firm, weather tight and watertight.
- E. Every structure or dwelling which has a controlled method of disposal of water from roofs such as gutters and downspouts shall be maintained in good repair.
- F. Every inside and outside stair, porch and appurtenance shall be constructed and maintained to be safe to use and capable of supporting the load that normal use may place on it. Guardrails, at least 33 inches in height with openings between balusters or balustrades no greater than six inches, shall be provided on all open postings of stairs, balconies, landings and stairwells where there are four or more steps or where more than 33 inches above surrounding ground or floor level. Stairs less than 44 inches in width shall be provided with a handrail on at least one side, and if 44 inches or more in width, on both sides; said handrails shall be started at the first tread, both top and bottom, and shall have no obstruction tending to break a handhold.
- G. All exterior surfaces, including chimneys and accessory buildings, shall be repaired, painted, coated, treated, sealed, pointed, sandblasted, or chemically cleaned or sealed when the surfaces require the above-stated maintenance to prevent or retard deterioration or weathering, to avoid health or safety hazards, or to promote an attractive appearance and prevent a substantial depreciation to the integrity of the neighborhood.
- H. Residential, commercial and industrial buildings and properties, whether vacant or occupied, and accessory structures, shall be maintained in conformity with the provisions of this chapter to promote an attractive appearance, prevent a substantial depreciation to the integrity of the neighborhood, or prevent health or safety hazards.
  - (1) In order to satisfy the requirements of this section, a person must comply with the following:
    - (a) Fences and other minor construction shall be maintained in a safe, substantial and attractive condition.
    - (b) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained free of holes or other hazards and be maintained to afford safe passage under normal use.
    - (c) Yards, courts, vacant lots and grass medians shall be kept trimmed and mowed, with the height of grass and weeds being no more than 10 inches, and clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust and other particles from being blown about the neighborhood, such as by the planting of grass.
    - (d) Open wells, cesspools or cisterns shall be securely closed or barricaded from access to the public.
    - (e) Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health shall be eliminated. Any trees or portions located on private property and constituting a hazard to persons or property shall be trimmed or removed.

- (f) An unregistered and/or unlicensed vehicle may not be parked stored or left in the open, whether behind a fence or not, unless it is necessary for the operation of a licensed auto repair business, lawfully situated on the property where the vehicle is stored, as permitted by applicable zoning regulations and state and/or local law, or lawfully situated on the property pursuant to a special permit issued hereunder for the purpose of accommodating valid police agency removal orders issued by the City of Binghamton Police Department. But in no case shall the number of unregistered and/or unlicensed vehicles permitted in the open at a licensed auto repair business exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicle or vehicles must be relocated to a completely enclosed garage or be removed from the property.

[1] Permits.

- [a] A person or company may apply from the City Clerk for a special permit allowing that person or company to store additional vehicles on property within the City of Binghamton if such storage is at the request or order of local law enforcement or municipal request or if necessary as per any New York State insurance laws.
- [b] The City Clerk is hereby authorized to adopt reasonable rules pertinent to the granting of said permit and/or revocation of a permit granted thereunder, and is authorized to issue the permit and revoke permits.
- [c] The fee for this permit shall be as set from time to time by the City Council (See Exhibit J).

[2] Penalties for offenses.

- [a] First offense: warning ticket.
- [b] Second offense within one year of first offense: fine of \$50 per vehicle.
- [c] Third offense within one year of second offense: fine of \$75 per vehicle.
- [d] Fourth offense within one year of third offense: fine of \$100 per vehicle.
- [e] Fifth offense within one year of fourth offense: Judge's discretion.
- (g) No unsightly furniture shall be placed or stored on an outside porch, yard and/or lawn of a property for any longer than is necessary to allow for its collection by a refuse handler. Furniture is unsightly when it is shredded, worn, discarded, torn, has stuffing visibly protruding from beneath the exterior, or is attracting or housing vermin.

- (2) Subsection H(1)(a) through (g) of this section are intended to be for illustrative purposes and are not intended to be an exhaustive list.

- I. The public sidewalks abutting upon private property shall be maintained and repaired by the owner of the property in accordance with the following provisions:
- (1) The owner shall cause his or her sidewalk to be kept free of obstructions and in good repair and conditions and safe for public use.
  - (2) In the event that sidewalks become out of grade (a heave, movement or settlement greater than one inch), the owner shall bring the same into true grade.

- (3) Where the owner shall fail or neglect to repair any sidewalk or bring the same to true grade within 45 days as determined by the Code Enforcement Bureau, the sidewalk shall be repaired or brought to grade by the Department of Public Works, and a bill for the expenses incurred shall be presented to the owner and collected in accordance with §§ 91 and 92 of the Second Class Cities Law of the State of New York. The bill presented to the owner shall include all City expenses, material and contractor costs.
- (4) The accumulation of snow and ice on sidewalks must be removed within 24 hours after said accumulation ceases. In the event of noncompliance, the Code Enforcement Director may direct the Department of Public Works to clean said sidewalks, and a bill shall be presented to the owner as per Subsection I(3).
- (5) In addition, the owners of commercial properties in areas defined as business or commercial districts under Chapter 410, Zoning, of the Code of the City of Binghamton, shall be required to maintain the sidewalk(s) abutting their property free of litter, trash and garbage and shall provide trash receptacles into which their patrons may dispose of all litter, trash and/or garbage generated by the provision of services or goods to their patrons.
  - (a) For the purposes of this subsection, the terms "garbage" and "litter" shall be defined as follows:

GARBAGE -- Any accumulation of waste consisting of animal, vegetable, fruit or similar organic matter that attends the preparation, use, dealing in, storage of, or sale of meat, fish, fowl, fruit, breads, vegetables or other food products; metal containers, paper cartons or other containers that have contained food materials and beverages; discarded paper, rubber, cloth, leather, sweepings, as well as inorganic waste such as glass, porcelain or other similar waste materials that ordinarily accumulate around a home, business or industry.

LITTER -- Any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste, including, but not limited to, cigarette butts; paper products; plastic cups, containers, wrappers or other plastic debris; glass and bodily fluids or waste, human or otherwise.
  - (b) For the purpose of this subsection, the term "properly dispose" shall not include disposal of the trash by placing it in the public trash receptacles provided by the City of Binghamton.
  - (c) Because all property owners are required to keep their sidewalk free of obstructions, no receptacle required by this subsection shall be placed on the public sidewalk, except upon the issuance of a street work permit. Instead, all such receptacles shall be maintained inside the business establishment.

J. Maintenance of property.

- (1) Whenever an owner of a property fails to comply with a notice by the Code Enforcement Bureau to cut and remove grass, heavy undergrowth or accumulations of plant growth on the property which constitute physical hazards, rodent harborages or places of infestation, or garbage or trash in violation of Subsection H(1)(c) or (3), the Director of Code Enforcement may direct that the grass, heavy undergrowth or accumulations of plant growth be cut and removed or such trash and garbage be removed from the property by the Department of Public Works.
- (2) A bill for the expenses incurred, in addition to an administrative fee as set from time to time by the City Council (See Exhibit J), shall be presented to the owner of the property, personally or by mailing it to him or her at his or her last known address. If the owner fails to pay within 10 days, the Director of Code Enforcement shall certify to the City Treasurer the expenses incurred and the administrative fee, and the total amount of the expenses plus the administrative fee shall become a lien. The lien upon the property shall be included in the next tax bill rendered to the owner, unless paid before, and shall be collected in the same

manner as other taxes against the property. The bill presented to the owner shall include all City expenses, material and contractor costs.

- (3) In addition to the enforcement set forth in Subsection J(1) and (2) above, the violator may be cited by means of an appearance ticket returnable in City Court, where the imposition of further penalties pursuant to § 265-5D above may be sought.

- K. Surface and subsurface water shall be directed so as not to impact adjacent buildings and properties or create ponding situations. Runoff shall not be drained over sidewalk areas.

**§ 265-14. Vacant Building Registry and Maintenance. [Amended 8-15-1988 by Ord. No. 106-88; L.L. No. 1-1990; 4-16-07 by Ord. No. 07-10A; 7-2-07 by L.L. No. 3-2007]**

- A. Legislative findings and purpose. It is the finding of the Common Council that vacant buildings are unsightly, unsafe, and have a negative effect on the community. Unfortunately, many buildings, once vacant, remain that way for years. The purpose of this article is to establish a program for identifying and registering vacant buildings, to set forth the responsibilities of owners of vacant buildings, and to speed the rehabilitation of vacant buildings.
- B. Definitions. Unless otherwise expressly stated, the following terms will, for the purpose of this article, have the meanings indicated in this section:

**EMERGENCY SITUATION**—Where the condition of a building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of occupants, emergency responders, and/or the general public. Such conditions include, but are not limited to, fire hazards, falling or dilapidated buildings, structures, or any part thereof, loss of significant water, heat, ventilation, or a lack of sanitary conditions.

**ENFORCEMENT OFFICER**—Any duly authorizing City of Binghamton employee of the Office of Building and Construction, Code Enforcement/Fire Marshal's Office, or designated representative of Planning, Housing and Community Development.

**OWNER**—The person, persons, or entity shown to be the owner or owners on the records of the City of Binghamton Department of Assessment, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, other person, firm or corporation in control of the premises. Any such person will have joint and several obligations for compliance with the provisions of this article.

**SECURED BY OTHER THAN NORMAL MEANS**—A building secured by means other than those used in the design and approved plans for the building.

**UNOCCUPIED**—A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by an enforcement officer. In determining whether a building is unoccupied, the Enforcement Officer may consider these factors, among others: (i) whether lawful residential or business activity has ceased; (ii) the percentage of the overall square footage of the occupied to unoccupied space or the overall number of occupied and unoccupied units; (iii) the building is substantially devoid of contents or the minimal value of fixtures or personal property in the building; (iv) the building lack utility services; (v) the building is subject to a foreclosure action; (vi) duration of vacancy; and/or (vii) the presence or reoccurrence of code violations.

**UNSECURED**—A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

**VACANT BUILDING**—A building, a portion of a building, or a structure which is any one or more of the below:

- (a) Unoccupied and unsecured;
- (b) Unoccupied and secured by other than normal means;
- (c) Unoccupied and an unsafe building as determined by an Enforcement Officer;
- (d) Unoccupied and enforcement office has issued an order to correct code violations;

- (e) Illegally occupied; or
- (f) Unoccupied for a period of time over 30 days.

C. Vacant building registration.

- (1) The owner of a vacant building will register with the Code Enforcement/Fire Marshal's Office no later than 30 days after any building becomes a "vacant building," as defined above, or not later than 30 days after being notified by an Enforcement Officer of the requirement to register. An Enforcement Office may identify vacant buildings through his/her routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry. Notice will be served upon, or sent by mail to, the owner, and any registered property manager, and to the property address. Notice will be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery or three days in Broome County or five days for other locations after service by first class mail. The City may also post notices on the City's website to provide additional notice to the public. However, the City's failure to post such violations on the City's website will not constitute a defense to any enforcement proceeding or collection of fines.
- (2) As part of the notice to register, the Enforcement Officer may provide the owner with a written referral to the Office of Economic Development, the Binghamton local Development Corporation, and the Planning, Housing, and Urban Renewal for information outlining programs available which may be useful to implement a rehabilitation plan.
- (3) The registration will be submitted on forms provided by the Code Enforcement/Fire Marshal's Office and will include the following information:
  - (a) A description of the premises, *i.e.*, square footage, number of stories, age of the building, and most recent use of the building.
  - (b) The names, addresses, and telephone numbers of the owner or owners. If the owner is a corporation, limited liability company or partnership, the address for each director, manager, or partner, as the case may be. The address must include a street address; a post office box is not acceptable.
  - (c) If the owner does not reside in Broome County or any adjoining New York county, the name and address of the registered property manager as required by § 265-6, *Registration of rental housing units; certificates of compliance*. The address must include a street address; a post office box is not acceptable.
  - (d) The names and addresses of all known lien holders and all other parties with an ownership interest in the building. Each address must include a street address; a post office box is not acceptable.
  - (e) A name, address, and telephone number of a responsible natural person (not a corporation, partnership, or limited liability company) who can be reached at all times during business and non-business hours. The address must include a street address; a post office box is not acceptable.
  - (f) A vacant building plan as described in Subsection 4 below.
- (4) The owner will submit a vacant building plan which must meet the approval of the Code Enforcement/Fire Marshal's Office. The Code Enforcement/Fire marshal's Office will consult with the Office of Buildings and Construction, and/or the Planning, Housing and Community Development, as the case may be. The plan, at a minimum, must contain information from one of the following three proposals for the property:
  - (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition.
  - (b) If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided in § 265-14.D below, along with the

procedure that will be used to maintain the property, and a statement of the reason(s) why the building will be left vacant; or

- (c) If the building is to be returned to appropriate occupancy or use, rehabilitation plans for the building. The rehabilitation plans will not exceed 365 days from the date of submission and will include progress benchmarks at least every four (4) months, unless the Code Enforcement/Fire Marshal's Office grants an extension for good cause shown, upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes. The building must be secured in accordance with § 265-14.D below during the rehabilitation.
- (5) The owner will comply with all applicable laws and codes. The owner will notify the Code Enforcement/Fire Marshal's Office of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Enforcement Officer.
- (6) The owner and any subsequent owner will keep the building secured and safe and the building and grounds properly maintained as provided in § 265-14.D below.
- (7) Failure of the owner or any subsequent owner to maintain the building and premises as required herein will be grounds for the City (i) to remediate the building and bill the costs of same to the owner as provided in § 265-13.J(2), *Maintenance of property*; (ii) revoke the rehabilitation plans; and (iii) the owner will be subject to fees and penalties as provided herein.
- (8) The owner will notify the Code Enforcement/Fire Marshal's Office of any transfer of ownership within fifteen (15) days of transfer. The new owner will comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Code Enforcement/Fire Marshal's Office.
- (9) Vacant building registration fees.
  - (a) The owner of a vacant building will pay a registration fee set by City Council (See Exhibit J). The registration fee is due and payable upon registration; to wit: no later than thirty (30) days after any building becomes a "vacant building," as defined above, or no later than thirty (30) days after being notified by an Enforcement Officer of the requirement to register.
  - (b) If the building is to remain vacant pursuant to § 265-14.C.4(b) above, then the owner will also pay an annual vacant building fee (See Exhibit J) until the building is properly demolished or rehabilitated. The annual vacant building fee is due and payable together with the registration fee and on each anniversary thereafter until the building is demolished or rehabilitated.
  - (c) If the building is to be returned to a permitted use pursuant to § 265-14.C.4(c) above, the rehabilitation plan will not exceed 365 days and will include progress benchmarks at least every four (4) months, unless the Enforcement Officer grants an extension for good cause shown upon receipt of a written statement from the owner detailing the reasons for the extension. If the rehabilitation has not been completed or extended by the Enforcement Officer, then the owner will pay an annual vacant building fee until the building is properly demolished or rehabilitated. The annual vacant building fee is payable either on each anniversary of the payment of the registration fee in (a) above or no later than fifteen (15) days after being notified by an Enforcement Officer that the owner has failed to meet a required benchmark, whichever date is earlier, and on each anniversary thereafter until the building is demolished or rehabilitated.

- (d) If the owner of a vacant building fails to register and pay the fees in a timely manner, then the owner will be subject to the penalty set forth in § 265-14.H below.
- (e) All delinquent fees will be paid by the owner prior to any transfer of an ownership interest in any vacant building. The owner will give a purchaser written notice that the building in question is a vacant building under this section.
- (f) The vacant building registration fees and annual vacant building fees as set forth in § 265-14.C.9 above are to be delivered, by mail or in person, to the Treasurer's Office, City Hall, 38 Hawley Street, Binghamton, New York 13901. A late charge of 1 ½ % per month or any part thereof, will be assessed on any invoice which is unpaid after thirty (30) days from the date of the demand for payment or an invoice. A \$25.00 processing fee will be charged for each check returned by the bank due to insufficient funds or other reason. A replacement payment must be made in cash, money order, bank or certified check, and must include the \$25.00 fee and any applicable late charges. Invoices and any additional fees that remain unpaid will be added to the property owner's tax bill, and will include an additional penalty of \$200.00.

(10) The Code Enforcement/Fire Marshal's Office will include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

#### D. Maintenance.

- (1) The owner of a vacant building will take such steps and perform such acts as may be required of him or her from time to time to ensure that the building and its grounds remain safe and secure and do not present a hazard to the adjoining property or the public. Owners will be responsible for maintaining their buildings and structures so that they do not become an unoccupied hazard. In any building or floor area that is vacant or about to become vacant, there will be at least one access which meets the approval of the Enforcement Officer.
- (2) The owner will protect and maintain the exterior of the building as follows
  - (a) Exterior walls, including foundations, will be maintained so that water does not penetrate into basements, cellars, or other interior areas. All exterior walls and foundations must be free of holes and crevices.
  - (b) Exterior doors, windows, skylights and similar opening will be maintained weather tight.
  - (c) Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in a safe and sound condition
  - (d) Roofs shall be maintained in a weather tight condition.
  - (e) Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.
  - (f) The coverings for windows and doors with glass may not consist of any substance sprayed onto the glass doors or windows. All enclosures shall be properly fitted and be of such material and surface that they are neither unsightly nor will materially detract from the general appearance of the building or the neighborhood and, when possible, secured by normal means.
  - (g) The covering for broken doors and cracked or broken windows may consist of replacement glass, plexiglass, boards, plywood or similar materials finished and maintained in a manner recommended and approved by the

Enforcement Officer. The materials will be designed and of such color to blend in with the finish of the building.

- (h) Windows that are not cracked or broken may be covered with interior blinds, curtains, shades, or decorative paper.
  - (i) The premises will be kept free of insects and vermin, and will be treated if necessary.
  - (j) Any excavations, swimming pools, or other attractive nuisance must be filled in or properly closed.
- (3) In addition to the standards prescribed above, vacant commercial and retail buildings shall comply with the following standards:
- (a) Any and all first floor windows will be replaced by glass, plexiglass, an approved mural, or announcement sign. Such coverings must be maintained.
  - (b) All exterior signs, awnings and lighting systems, if not removed, shall be maintained in a non-deteriorated and safe condition.
- (4) The owner will protect and maintain the interior of the building as follows
- (a) Structural members will be maintained to resist and prevent deterioration.
  - (b) Unheated attics, spaces below flat roofs, and crawl spaces will be ventilated to minimize deterioration.
  - (c) Ceilings, walls, floors and stairways will be maintained in a safe and sound condition.
- (5) The owner will maintain the premises as follows:
- (a) The owner will not permit garbage and refuse to accumulate.
  - (b) Buildings and structures will be maintained free of insects, vermin and rodent harborage and infestation
  - (c) Refrigerators and similar equipment with locking mechanisms will not be discarded, abandoned or store without first removing the locking devices or the hinges of the doors.
  - (d) Junked vehicles as defined in § 265-2, equipment, or materials will not be stored at the premises.
  - (e) Chimneys, smokestacks, flues, gas vents, smoke pipes and connectors will be maintained structurally safe and smoke tight.
  - (f) If the building is to be demolished or remain vacant, then, within ten (10) days of registering the building as a vacant building, all fuel gas, water, and utilities must be disconnected at the mains and water pipes drained. If the building is going to be rehabilitated, then the building must be heated to avoid freezing pipes, fuel gas pipe systems must be maintained gastight, safe and operative condition, and water pipes must be maintained to avoid leaks and/or breakage.
  - (g) Fuel tanks will be maintained so as not to be a hazard or will be discontinued in a manner consistent with Chapter C of the State Uniform Fire Prevention and Building Code (9 NYCRR).
  - (h) The domestic water supply system of the building will be connected to an approved source, will not be subject to contamination and will not be connected to unsafe water supplies or the system will be disconnected at the main and completely drained.
  - (i) Storm water drainage systems will be maintained so as to function properly and be kept free from obstructions, leaks and defects. Sewage systems will be similarly maintained or will be sealed so as to prevent accumulation of sewage gases in buildings.



- (j) Electrical fixtures, devices, wiring and systems will be maintained in safe working condition in a manner which will avoid a potential source of ignition or shock or service will be discontinued at the supply.
- (k) Elevators, dumbwaiters and escalators will be maintained or taken out of service, in accordance with ANSI A17.1.
- (l) The owner will provide for snow removal as required by § 265-13.I(4).
- (m) The owner will maintain yards and vacant lots trimmed and mowed, with the height of grass and weeds being no more than 10 inches, and clean and free of physical hazards, rodent harborage and infestation as required by § 265-13.H.

(6) Whenever the owner of a vacant building fails to comply with a notice from an Enforcement Officer to take steps and perform acts as are required of him or her to ensure that a building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property in violation of subsection 2 above, the City may, pursuant to § 265-4, *Enforcement*, enter onto the building and the property and take steps and perform acts to render the building and its adjoining yards safe, secure and free from hazards to adjoining property and public. These acts will include but not be limited to removal of dangerous conditions, properly replacing or boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of water or sewer gas, or removing flammable or otherwise hazardous materials and debris. A bill for the expenses incurred above will be presented to the owners of the building consistent with the provisions outlined in § 265-4 and § 265-13.J(2) of this chapter.

E. Exemptions. A building which has suffered fire damage or damage caused by extreme weather conditions will be exempt from the registration requirement for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Code Enforcement/Fire Marshal Office. This request will include the following information supplied by the owner:

- (1) A description of the premises.
- (2) The reason for an exemption.
- (3) The names and addresses of the owner or owners. A post office box is not acceptable.
- (4) A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building

F. Inspections. By registering a vacant building, an owner consents to an Enforcement Officer inspecting the premises for the purpose of enforcing and assuring compliance with the provisions of this article. Upon the request of the Enforcement Officer, an owner will provide access to all interior portions of a vacant building in order to permit a complete inspection. Nothing contained herein, however, will diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Enforcement Officer or his or her designee in order to enable such inspection, and the Enforcement Officer will be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises after having been advised of his or her constitutional right to refuse entry without same. In the case of an emergency this section will not apply.

G. Annual reports. Once a year, the Office of Buildings and Construction or Code Enforcement/Fire Marshal's Office will send to the Mayor and to the Common Council a list of all buildings in the City declared vacant under the provisions of this article, as well as a list of all previously declared vacant buildings which are no longer subject to the provisions of this article. This information may be published on the City's website.

H. Penalties for offenses. Any person violating any provision of this Vacant Building Registry, including failure to register, any provision of Chapter 133 or of the Uniform Fire Prevention and Building Code, or providing false information to the Enforcement Officer will be subject to the following fines:

- (1) Such person will be subject to a fine of \$1,000 or imprisonment not exceeding six months, or both such fine and imprisonment
- (2) The term "person," as used in this section, will include the owner, occupant, mortgagee or vendee in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the building or part thereof.
- (3) Each day of violation will be deemed to constitute a separate offense.
- (4) Fines levied will constitute civil forfeitures to the City of Binghamton.

**§ 265-15. Garbage and sanitation. [Amended 8-15-1988 by Ord. No. 106-88; 2-20-1990 by Ord. No. 90-19; Amended 9-5-2006 by Ord. No. 06-42]**

A. Every rental unit shall have adequate rubbish and garbage storage facilities of a kind sufficient to meet the requirements of the Department of Public Works and the county health department for garbage and rubbish collection and disposal.

B. Disposal facilities; container size.

- (1) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers.
- (2) For the purposes of this chapter, a minimum of one twenty-gallon garbage container or its equivalent per dwelling unit shall be deemed to be adequate garbage disposal facilities.

C. Every occupant of a rental unit shall dispose of all his or her garbage and other organic waste in garbage disposal facilities or garbage storage containers. It shall be the owner's responsibility to supply facilities or containers for all rental units.

D. It shall be prohibited to store or accumulate garbage, debris or refuse in public halls, porches or stairways. All garbage, debris and refuse shall be disposed of in a safe and sanitary manner.

E. No refrigerator may be discarded, abandoned or stored in a place accessible to children without first removing any locking devices or the hinges of the door or the door itself.

F. Extermination of insects; rodents and other pests.

- (1) Every occupant of a dwelling containing a single rental unit shall be responsible for the extermination of any insects, rodents or other pests on the premises unless the occupant establishes that the infestation predated his or her tenancy or was caused by factors outside his or her control.
- (2) Every occupant of a dwelling in which there is more than one rental unit shall be responsible for extermination whenever his or her unit is the only one infested unless the occupant establishes that the infestation predated his or her tenancy or was caused by factors outside of his or her control.

- (3) Whenever infestation exists in two or more of the units in any dwelling, or in shared or public areas, it shall be the responsibility of the owner to exterminate when there is infestation.
- (4) A tenant shall be free from the responsibility to exterminate when the infestation is caused by the failure of the owner to maintain the dwelling in a rodentproof or reasonably insectproof condition.
- (5) If an occupant or tenant is not responsible to cure the infestation by any reason set forth above, then the owner of the building will be responsible to exterminate the infestation.
- (6) All other single-family dwellings, commercial buildings or other structures in which insects, rodents or other pests are found will be promptly exterminated by the owner, including the City, by an approved process which will not be injurious to human health and which will be implemented to limit the spread of such insects, rodents or other pests to other properties. After extermination, proper precautions will be taken to prevent reinfestation.
- (7) In the event of any violation of this section, the occupant, tenant or owner, including the City, as the case may be, will be responsible for the costs to exterminate the infestation to his or her property, as well as any other property infested as a result of the infestation of his or her property, together with penalties pursuant to § 1-4, General penalty; continuing violations, except the City will not be responsible for any fine. If the occupant, tenant or owner, as the case may be, fails or refuses to exterminate the premises after written notice to the address on the City's assessment roll and three days to cure, the City may provide for such extermination and the costs, including all litigation expenses and reasonable attorney's fees, will be a charge payable by the owner, and may be collected in either a civil proceeding before the City Court or Supreme Court; or, in the alternative, the costs may be added to and collected in the same manner as real property taxes.
- (8) Prior to the demolition of any building, the owner, including the City, or its designated contractor will conduct an inspection of the premises, when physically possible, to determine the presence of insects, rodents or other pests. If insects, rodents or other pests are identified, then the premises will be treated for such insects, rodents or other pests prior to demolition. Provided the owner takes reasonable steps to treat the premises, then the owner will not be liable for the spread of insects, rodents or other pests. However, if the owner fails or refuses to exterminate the premises after written notice to the address on the City's assessment roll and three days to cure, then City may provide for such extermination and the costs, including all litigation expenses and reasonable attorney's fees, will be a charge payable by the owner, and may be collected in either a civil proceeding before the City Court or Supreme Court; or, in the alternative, the costs may be added to and collected in the same manner as real property taxes.

G. No garbage or rubbish designated for disposal shall be placed at the curblineline earlier than the evening preceding the normal garbage collection day.

#### **§ 265-16. Unfit dwellings.**

- A. Designation by Director. Any rental unit or dwelling which is found to have any of the defects listed below may be condemned as unfit for human habitation and so designated and placarded by the Director of Code Enforcement:
  - (1) One which, by reason of its failure to comply with the foregoing requirements of this chapter, is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.
  - (2) One which lacks illumination, ventilation or sanitation required by this chapter so as to protect adequately the health or safety of the occupants or of the public.
- B. Service contents. An order designating the premises as unfit for human habitation shall be served upon the owner personally or by certified mail, return receipt requested, and to all occupants

personally or by regular mail, and posted in a conspicuous place on the building. The order of designation shall set forth the reasons for the designation and specify the time, date and place of the hearing to be held on the matter. The notice to the occupants must set forth the occupants' right to be heard at the hearing, the possible consequences of the hearing, including that the building may be closed and the occupants required to vacate by a particular date, if known.

- C. Hearing. A hearing shall be held within seven days of service upon the owner to review the designation as unfit by the Director. A hearing officer shall be appointed by the Mayor to preside. The owner, occupants and any other interested parties may appear and give testimony. The hearing officer, after considering all the evidence, may sustain, modify or revoke the order of the Director designating the premises as unfit for human habitation.
- D. Decision. The decision of the hearing officer shall be in writing and mailed to all interested parties. It shall specify the reasons for sustaining, modifying or revoking the designation of the Director. Any premises condemned as unfit for human habitation, and so designated, shall be placarded and vacated within the time ordered by the hearing officer.
- E. Reoccupation. No rental unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the Director of Code Enforcement stating that the defect or defects upon which the condemnation and placarding action were based have been corrected.
- F. No person shall deface or remove the placard from any rental unit which has been condemned as unfit for human habitation and placarded except as provided for in Subsection E above.

**§ 265-17. Rooming houses.**

- A. No person shall operate a rooming house or shall occupy or let to another for occupancy any rooming unit in any rooming house unless it is in compliance with the provisions of this and every section of this chapter except for those § 265-12B, C and D that refer to water facilities and plumbing.
- B. Whenever upon inspection of any rooming unit or house the Code Enforcement Bureau finds that conditions or practices exist which it believes are in violation of any provision of this chapter or any other law or ordinance which is applicable, the Code Enforcement Bureau shall give notice of the violation according to the provisions outlined in § 265-4 of this chapter.
- C. Every rooming house shall have supplied water heating fixtures which are properly installed to both hot and cold water lines and which are capable of heating water to at least 120° F. to permit an adequate amount of water to be drawn at every required fixture in the rooming house.
- D. There shall be a minimum of one flush water closet, lavatory basin, and a shower supplied for each six persons or fraction residing within the rooming house, including the owner's family when they share the facilities. In rooming houses where rooms are let only to males, a maximum of 50% of the required water closets may be flush urinals. All facilities shall be accessible from common halls or passages, and facilities may not be located in the basement or cellar.
- E. All bathroom facilities shall be cleaned and disinfected at least twice per week, and all shared kitchen facilities shall be cleaned and disinfected at least once per week.

- F. The operator of every rooming house shall change supplied bed linen and towels at least once per week and prior to letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- G. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings as well as the sanitary maintenance of every other part of the entire premises in conformity with the minimum requirements of this chapter.
- H. Every provision of this chapter which applies to rooming houses shall apply to hotels except to the extent that any provision that conflicts with the laws of this state or with the lawful regulations of any state board or agency.

**§ 265-18. Penalties for offenses. [Amended 8-15-1988 by Ord. No. 106-88; 10-15-1990 by Ord. No. 114-90; 7-7-1997 by Ord. No. 88-97; Amended 5-16-2005 by Ord. No. 05-31; 7-2-07 by Ord. No. 35-2007]**

- A. Any person found guilty of violating or assisting in the violation of any provisions in §§ 265-16 and 265-17 of this chapter, or any person who shall have been served with a written order of the hearing officer and who shall fail to comply with the order, shall be guilty of a violation and liable for a fine not exceeding \$1,000 or by imprisonment for a period of not more than 15 days, or both.
- B. Any person found guilty of violating or assisting in the violation of any provision in §§ 265-16 and 265-17 of this chapter or any person who shall have been served with a written order of the hearing officer and who shall fail to comply for the second or more time in a two-year period shall be guilty of a misdemeanor and liable for a fine of not less than \$500 nor \$2,000 or by imprisonment for a period of not more than six months, or both.
- C. Except as provided for in §§ 265-6 of this chapter and Subsections A and B above, whenever a person has been convicted three or more times for the violation of any provision of this chapter within five years, such person shall be punished by a fine of \$1,000 and may additionally be punished by imprisonment not to exceed 15 days' incarceration, except as provided for by Subsection D.
- D. Upon motion of Corporation Counsel, and upon a finding by the Court that justice so requires, the Court may assess an appropriate fine in an amount less than \$1,000 and/or may sentence a defendant to an appropriate conditional discharge in lieu of jail.
- E. Inspection fees for multiple inspections and repeat offenders.
  - (1) Multiple inspections for one violation.
    - (a) There shall be no fee charged for an initial inspection to determine the existence of a housing maintenance code violation nor any fee for the first inspection to determine compliance with an order to correct a code violation
    - (b) In the event an appearance ticket is issued and a court date determined, there shall be no fee charged for the first inspection after the arraignment.
    - (c) For each subsequent inspection finding noncompliance a twenty-five dollar (\$25.00) inspection fee shall be charged.
  - (2) Inspection fees for repeat offenders.
    - (a) This section applies to any person receiving multiple orders to remedy or notices of violation within a twelve month period.
    - (b) This ordinance includes but is not limited to violations of the following Binghamton City Code provisions: §§ 265-7, 265-8, 265-13, and 350-18.

- (c) Any person receiving multiple orders to remedy or notices of violation within a twelve month period shall be subject to an inspection fee as set forth in the fee schedule below:
    - [1] First and Second order to remedy, notice of violation, or littering violation received: no charge
    - [2] Third order to remedy, notice of violation, or littering violation received: \$25.00 inspection fee
    - [3] Fourth or subsequent order to remedy, notice of violation, or littering violation: \$50.00 inspection fee
  - (d) In the event that an inspection does not reveal the existence of a violation, there shall be no fee charged for the inspection.
- (3) Notice and Collection of Penalties
- (a) The inspection fees prescribed above shall be billed directly to the tenant or owner, as the case may be, and a copy mailed to the owner and/or contact person/agent of the property. Inspection fees shall be increased by fifty (50) percent when not paid within thirty (30) days after initial billing, to cover administrative costs. This subsection shall not be considered the exclusive method of collecting inspection fees and shall not preclude collection by other lawful methods. If unpaid after thirty (30) days, the costs may be added to and collected in the same manner as real property taxes.
  - (b) Every notice of violation and order to correct housing code violations shall contain a clear and conspicuous explanation of the policy in this section requiring fees for inspections or a copy of this section.
  - (c) The Fire Marshall/Director of Code Enforcement, and code enforcement officers designated by the Director, may waive an inspection fee in case of error, mistake, injustice, or other good cause.

**§ 265-19. Mandatory minimum penalties for specific offenses. [Added 12-4-2000 by Ord. No. 00-140; amended 4-18-2005 by Ord. No. 05-25; 7-17-2006 by Ord. No. 06-29]**

- A. Notwithstanding the availability of any other remedies or the enforcement of the provisions of this Code, the penalties set forth in Subsection B herein below shall be imposed for any conviction of any of the following offenses:
  - (1) Section 265-7A.
  - (2) Section 265-8A.
  - (3) Section 265-8B.
  - (4) Section 265-13H(1)(f).
  - (5) Section 265-13H(1)(g).
  - (6) Section 265-13I(1).
  - (7) Section 265-13I(2).
  - (8) Section 265-13I(3).
  - (9) Section 265-13I(5).
  - (10) Section 265-15D.
- B. Upon conviction of any of the above-enumerated offenses, the following penalties shall be imposed:
  - (1) For a first conviction: a fine of not less than \$25.
  - (2) For a second conviction within five years: a fine of not less than \$50.
  - (3) For a third conviction within five years: a fine of not less than \$150 and/or a minimum of five days in jail.
  - (4) For a fourth conviction within five years: a fine of not less than \$500 and a minimum of five days in jail.
  - (5) For a fifth conviction within five years: a fine of not less than \$1,000 and 15 days in jail.

- C. Notwithstanding the availability of any other remedies or the enforcement of the provisions of this Code, the penalties set forth in Subsection D herein below shall be imposed for any conviction of any of the following offenses:
  - (1) Section 265-13H(1)(c).
  - (2) Section 265-13H(1)(e).
  - (3) Section 265-13I(4).
  
- D. Upon conviction of any of the offenses enumerated in Subsection C, the following penalties shall be imposed:
  - (1) For a first conviction of violating the sections enumerated in Subsection C, a fine of not less than \$250.
  - (2) For a second conviction of violating the sections enumerated in Subsection C within any twelve-month period, a minimum penalty of \$500.
  - (3) For a third conviction of violating the sections enumerated in Subsection C within any twelve-month period, a minimum penalty of \$1,000, and violators may additionally be punished by imprisonment not to exceed 15 days' incarceration.
  - (4) The enhanced penalties for multiple convictions within a five-year period as set forth in Subsection C of § 265-18 shall also apply to all convictions subject of Subsections C and D of this section.
  
- E. Nothing contained herein shall preclude the Court from, in its discretion, imposing an appropriate amount of community service in lieu of the penalties described in Subsections B and D, or in addition to said penalties. The appropriate amount of community service shall be not less than five hours per \$25 worth of the mandatory minimum fines enumerated in Subsection B hereinabove.

**§ 265-20. Conflict of ordinances; severability. [Amended 10-15-1990 by Ord. No. 114-90]**

- A. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City of Binghamton existing on the effective date of the ordinance from which this chapter is derived, the provision which establishes the higher standard for the promotion and protection of health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with any other ordinance or code of the City of Binghamton existing on the effective date of this chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail; and the other ordinances or codes are declared to be repealed to the extent that they may be found to be in conflict with this chapter.
  
- B. Notwithstanding the availability of other remedies for enforcement of the provisions contained in this chapter, the Building Code (Chapter 200), Plumbing Code (Chapter 310, Article II), Fire Prevention Code (Chapter 235) and Zoning Ordinance (Chapter 410) of the City of Binghamton, and in other state and local laws, ordinances or regulations enforced by the Department, the remedies and enforcement procedures set forth in this chapter are made available to enforce the provisions of the above-enumerated codes and laws and shall be deemed cumulative to other enforcement procedures and remedies.
  
- C. If any section, subsection, paragraph, sentence, clause or phrase of this chapter should be declared invalid for any reason whatsoever, the decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; and to this end the provisions are declared to be severable.

**§ 265-21. Effective date. [Amended 10-15-1990 by Ord. No. 114-90]**

The ordinance from which this chapter is derived shall take effect 45 days from the date of its adoption.

**ARTICLE II, Slum Properties [Added 7-6-1999 by Ord. No. 99-111]**

**§ 265-22. Authorization to implement policies.**

The Director of Code Enforcement Department or his or her designee is hereby authorized to implement internal policies/rules/regulations for dealing with owners of slum properties.

**§ 265-23. Utilization of policies.**

Said internal policies/rules/regulations should be utilized only for the purpose of securing compliance with the City of Binghamton Housing Property Maintenance and Rehabilitation Code.

**§ 265-24. Proper content and form required.**

All internal policies/rules/regulations should be in proper content and form to the Office of Corporation Counsel.

**ARTICLE III, Enforcement Program for Parking Garages [Added 10-23-2019 by Local Law 19-01]**

**§ 265-25. Purpose and Intent**

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this City. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

**§ 265-26 Definitions**

In this local law:

“Building Permit” shall mean a permit issued pursuant to section 4 of this local law. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Certificate of Occupancy” shall mean a certificate issued for new “Parking Garage” as defined below. After a Certificate of Occupancy is issued, all further compliance with inspections will be a “Certificate of Compliance” as defined below.

“Certificate of Compliance” shall mean a certificate issued pursuant to subdivision (b) of section 265-31 of this local law.

“City” shall mean the City of Binghamton.

“Code Enforcement Officer” shall mean the Supervisor of Building Construction, Zoning, & Code Enforcement or Code Enforcement Officer appointed pursuant to subdivision (b) of section 265-28 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Building and Code Inspectors.

“Code Inspector” shall mean a building or inspector appointed pursuant to subdivision (d) of section 265-28 of this local law.



“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Operating Permit” shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 265-40 of this local law.

“Parking Garage” shall mean any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
- (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
- (iii) a townhouse unit with attached parking exclusively for such unit.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, Limited Liability Company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this local law.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

#### **§ 265-27. Code Enforcement Officers**

(a) The Code Enforcement Officer, Building Inspectors, and Code Inspectors (collectively “Code Enforcement Officer”) shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

- (1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;
- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;
- (4) to issue Stop Work Orders;
- (5) to review and investigate complaints;
- (6) to issue orders pursuant to subdivision (a) of section 265-40 (Violations) of this local law;
- (7) to maintain records;
- (8) to collect fees as set by the City Council of this City;

- (9) to pursue administrative enforcement actions and proceedings;
- (10) in consultation with this City's Corporation Counsel, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and
- (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer is appointed by the Mayor in compliance with the rules of the New York State and City of Binghamton Civil Service. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Mayor in compliance with the rules of the New York State and City of Binghamton Civil Service to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Code Inspectors may be appointed by the Mayor of this City to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Code Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Code Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Code Inspectors shall be fixed from time to time by the City Council of this City.

### **§ 265-28. Building Permits**

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

- (1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
- (2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (4) installation of fences which are not part of an enclosure surrounding a swimming pool;
- (5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- (6) construction of temporary motion picture, television and theater stage sets and scenery;

- (7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (8) installation of partitions or movable cases less than 5'-9" in height;
- (9) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

- (g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- (h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- (i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- (j) Revocation or suspension of Building Permits. If a Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- (k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 265-41 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

#### **§265-29. Construction Inspections**

- (a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by a Code Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.
- (b) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:
- (1) work site prior to the issuance of a Building Permit;
  - (2) footing and foundation;
  - (3) preparation for concrete slab;
  - (4) framing;
  - (5) building systems, including underground and rough-in;
  - (6) fire resistant construction;
  - (7) fire resistant penetrations;
  - (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
  - (9) Energy Code compliance; and
  - (10) a final inspection after all work authorized by the Building Permit has been completed.
- (c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- (d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 265-41 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

### § 265-30. Stop Work Orders

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

- (1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 16 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

### § 265-31. Certificates of Occupancy and Certificates of Compliance

(a) Certificates of Occupancy or Certificates of Compliance are required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a [*Certificate of Occupancy / Certificate of Compliance*].

(b) Issuance of Certificates of Occupancy or Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy/Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or a Code Inspector authorized by the Code Enforcement Officer or Code Inspector shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy/Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for

the Certificate of Occupancy/Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy/Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections, and
- (2) flood hazard certifications.

(c) Contents of Certificates of Occupancy/Certificates of Compliance. A Certificate of Occupancy/Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name, address and tax map number of the property;
- (4) if the Certificate of Occupancy/Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy/Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the assembly occupant load of the structure, if any;
- (8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy/Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy/Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 265-41 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy/Certificate of Compliance or for Temporary Certificate.

### **§ 265-32. Notification Regarding Fire or Explosion**

The chief of any fire department providing firefighting services for a property within this City shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

### **§ 265-33. Unsafe Building and Structures**

Unsafe structures and equipment in this City shall be identified and addressed in accordance with the procedures established by the Uniform Fire Prevention and Building Code or Chapter 203, Unsafe Buildings, of the Code of the City of Binghamton, as now in effect or as hereafter amended from time to time.

### **§ 265-34. Operating Permits**

(a) Operation Permits required. Operating Permits shall be required for conducting any activity listed in paragraphs (1), (2), or (3) below or operating any type of building or structure listed in paragraphs (4), (5), or (6) below:

- (1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 5003.1.1(1),5003.1.1(2),5003.1.1(3),5003.1.1(4) of the 2015 edition of the International Fire Code (a publication currently incorporated by reference in 19 NYCRR Part 1225);
- (2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
- (3) use of pyrotechnic devices in assembly occupancies;
- (4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more;
- (5) parking garages as defined in subdivision (a) of section 265-26 of this local law; and
- (6) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the City Council of this City.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or a Code Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 265-41 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

### **§ 265-35. Fire Safety and Property Maintenance Inspections**

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or a Code Inspector designated by the Code Enforcement Officer at the following intervals:

- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every 24 months.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or a Code Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:

(1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.]

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 265-41 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

### **§ 265-36. Complaints**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;



- (b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 265-40 (Violations) of this local law;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

### § 265-37. Condition Assessments of Parking Garages

(a) Definitions. For the purposes of this section:

- (1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
  - (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
  - (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
  - (iii) a townhouse unit with attached parking exclusively for such unit;
- (4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;
- (5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.
- (6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the 2015 edition of the International Property Maintenance Code (a publication currently incorporated by reference in 19 NYCRR Part 1226); and
- (7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) Condition Assessments – general requirements. The owner or operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the City, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(c) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

- (1) New parking garages shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure,

- (2) Existing parking garages shall undergo an initial condition assessment as follows:
- (i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
  - (ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
  - (iii) if originally constructed between January 1, 2003 and the effective date of the rule adding this subdivision to 19 NYCRR section 1203.3, then prior to October 1, 2021.
- (d) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.
- (e) Additional Condition Assessments.
- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the City shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
  - (2) If the City becomes aware of any new or increased deterioration which, in the judgment of the City, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the City shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the City to be appropriate.
  - (f) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the City within forty-five (45) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:
    - (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
    - (2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
    - (3) an evaluation and description of the unsafe conditions;
    - (4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
    - (5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
    - (6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
    - (7) the responsible professional engineer's recommendation regarding preventative maintenance;
    - (8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
    - (9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency

and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

(g) Review Condition Assessment Reports. The City shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the City shall, by Order to Remedy or such other means of enforcement as the City may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the City to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(h) The City shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the City with a written statement attesting to the fact that he or she has been so engaged, the City shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The City shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(i) This section shall not limit or impair the right or the obligation of the City:

- (1) to perform such construction inspections as are required by section 5 of this local law;
- (2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 of this local law; and/or
- (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the City by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

### **§ 265-38. Record Keeping**

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy/Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all other features and activities specified in or contemplated by sections 4 through 13, inclusive, of this local law, including; and
- (10) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

### **§ 265-39. Program Review and Reporting**

(a) The Code Enforcement Officer shall annually submit to the Mayor and City Council of this City a written report and summary of all business conducted by the Code Enforcement Officer and the Code Inspectors, including a report and summary of all transactions and activities described in section 265-38 (Record

Keeping) of this local law and a report and summary of all appeals or litigation pending, ongoing, or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this City, on a form prescribed by the Secretary of State, a report of the activities of this City relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this City is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this City in connection with administration and enforcement of the Uniform Code.

#### **§ 265-40. Violations**

(a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by \_\_\_\_\_ [*specify date*], which is thirty (30) days after the date of this Order to Remedy.” The Order to Remedy may include provisions ordering the person or entity (owner or operator) served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Code Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this City.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this City, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy/Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this

local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this City, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the City Council of this City.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

#### **§ 265-41. Fees**

A fee schedule shall be established by resolution of the City Council of this City. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy/Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

#### **§ 265-42. Intermunicipal Agreements**

The City Council of this City may, by resolution, authorize the Mayor of this City to enter into an agreement, in the name of this City, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

#### **§ 265-43. Partial Invalidity**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

#### **§ 265-44. Effective Date**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.