

# **Journal of Proceedings**

OF THE COMMON COUNCIL OF THE CITY OF OLEAN, N.Y.

December 12, 2017

## **COMMON COUNCIL CHAMBERS**

### **COUNTY OF CATTARAUGUS**

### **STATE OF NEW YORK**

*A Regular Meeting of the Olean Common Council of the City of Olean was held on Tuesday, December 12, 2017 at 6:30 p.m.*

**PRESENT:** *Aldermen Gonzalez, Witte, Andreano, Dougherty, Crawford, Smith, and George*

**ABSENT:** *None*

**OFFICIALS:** *Mayor William Aiello; Al Utecht, City Clerk; Nicholas DiCerbo, Jr., City Attorney; Fred Saradin, City Auditor; Bob Ring, Director of Public Works; Bob Bell, Fire Chief, Jeff Rowley, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.*

*At this time a prayer was given by Pastor Sean Obergfell of Believer's Chapel, followed by a salute to the flag.*

### **READING, CORRECTING & APPROVAL OF THE MINUTES OF THE PREVIOUS REGULAR MEETING**

*A motion to approve the minutes of the November 28, 2017 meeting was made by Alderman Gonzalez, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.*

### **COMMITTEE REPORTS & UNFINISHED COUNCIL BUSINESS**

*Report from Strategic Planning Committee on PL #96-17, to authorize the sale of 1202 West Sullivan Street to a private entity. Committee recommends approval. Referred to City Attorney for Resolution.*

*Report from Public Safety Committee on PL #97-17, to adopt Local Law #01-2017 prohibiting the occupancy of an existing structure after change of ownership or change of occupancy classification until a Certificate of Occupancy has been issued by the City of Olean Department of Buildings and Code Enforcement. Committee recommends approval. Referred to City Attorney for Resolution.*

### **COMMUNICATIONS FROM THE MAYOR**

*Certificate of Appointment – Andrew Langdon, Police Captain*

### **MISCELLANEOUS COMMUNICATIONS**

*Application for a Liquor License – Johnsen & Johnsen, LLC (State King) – 901 East State Street*

### **CITY OFFICIAL REPORTS**

*None*

### **PROPOSED LEGISLATION AND REFERRALS**

*None*

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## ***PUBLIC COMMENT/INPUT***

*Alderman Andreano thanked the Mayor, Chief Rowley and Chief Bell for their assistance in the Holiday Safety and Prevention seminar. It was very insightful and informative. This was a great opportunity and she looks forward to continuing events such as these in the future. Mayor Aiello added that we need to start planning now for the National Night Out.*

*Tina Kamery of 320 East Riverside Drive began by apologizing for the inconvenience placed on the Mayor, City Attorney, Council, and Police Department in regards to the complaints that were received about her cattle. She stated that not only is their fence intact, it is above the requirements set by New York State Agriculture and Markets. She presented photos where someone wired a board to the fence that ended up shorting out the electric to the fence. She asks that the neighbor be made to remove the wood, and possibly that charges be filed for tampering with private property. This was never an issue in the past, and she and her husband have always been very helpful and responsive to their neighbors. If the neighbors would have called about the cattle roaming, they would have gone right out to rectify the situation; however, they were never notified.*

*George Lapennas of 653 Garden Avenue expressed frustration that the Council didn't allow for additional public comments prior to the vote on the Code change that will be occurring this evening. He doesn't feel that the Council clarified the changes made between versions of the documents. He also expressed displeasure that the online Code of Ordinances is not up to date. He doesn't believe that the City's current snow ordinance is being communicated correctly.*

## ***FINANCE / BILLS***

*None*

## ***RESOLUTIONS***

### **RESOLUTION #93-17**

### **PL #25-17**

*By Alderman Gonzalez, Seconded by Alderman Dougherty*

***TO AMEND AND REPLACE THE CITY OF OLEAN CODE OF ORDINANCES CHAPTER 12 IN ITS ENTIRETY WITH THE FOLLOWING CHAPTER 12, PROPERTY MAINTENANCE AND RESIDENTIAL OCCUPANCY CODE: ARTICLE I, PROPERTY MAINTENANCE CODE; ARTICLE II, RESIDENTIAL OCCUPANCY CERTIFICATES; ARTICLE III, RENTAL DWELLING REGISTRATION, INSPECTION AND OCCUPANCY PERMITS; AND ARTICLE IV, DESIGNATION OF UNFIT DWELLINGS***

***RESOLVED***, that the City of Olean Code of Ordinances Chapter 12 is hereby replaced in its entirety by the following:

***Chapter 12. Property Maintenance and Residential Occupancy Code.***

***Chapter 12. Property Maintenance and Residential Occupancy Code***

## ***ARTICLE I: PROPERTY MAINTENANCE***

### ***§ 12-1 Findings and declaration.***

*It is hereby found and declared that there exists in the City of Olean structures used for*

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*residential and nonresidential use which are or may become in the future substandard with respect to structure, equipment or maintenance or further that such conditions, including but not limited to structural deterioration; lack of maintenance and appearance of exterior of premises; infestation; lack of essential heating, plumbing, storage or refrigeration equipment; lack of maintenance or upkeep of essential utilities and facilities; existence of fire hazards; inadequate provisions for light and air; and unsanitary conditions, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the city. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums and that, if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time and expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.*

## **§ 12-2 Purpose.**

*The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; and to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants.*

## **§ 12-3 Definitions.**

*As used in this chapter, the following terms shall have the meanings indicated:*

### **ACCESSORY BUILDING**

*A structure, the use of which is incidental to that of the main building, and which is attached thereto or is located on the same premises. [9NYCRR 606.3(a)(1)].*

### **BILLBOARDS (See "signs")**

- A. A flat surface (as of a panel, wall or fence) on which bills are posted; a large panel designed to carry outdoor advertising.*
- B. A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered elsewhere than upon the lot on which such sign is situated.*

### **BLIGHT**

*Something that impairs or destroys; an impaired condition; to cause to deteriorate, ruin.*

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## *BUILDING*

*A structure, wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.*

## *CITY*

*The City of Olean.*

## *CODE ENFORCEMENT OFFICER*

*The officer charged with enforcement of building or fire codes. [9NYCRR 606.3(a)(31). The officer employed by the City of Olean to enforce the City Code of ordinances of the City of Olean and this chapter, as well as the New York State Public Health Law.*

## *CONSTRUCTION DEBRIS*

*Discarded building material, concrete, stones, earth from excavations or grading and all other refuse resulting from the erection, repair, demolition or other improvement of property.*

## *DEBRIS*

*To break to pieces: the remains of something broken down or destroyed; ruins.*

## *DETERIORATION*

*The condition or appearance of a building, or any part thereof, characterized by holes, rot, breaks, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, excessive use or lack of maintenance.*

## *DWELLING, MULTIPLE*

- A. A building containing three or more dwelling units; building containing living, sanitary and sleeping facilities occupied by one or two families and more than four lodgers residing with either one of such families; a building with one or more sleeping rooms, other than a one- or two-family dwelling, used or occupied by permanent or transient paying guests or tenants; a building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority or for similar uses; a building used or occupied as an old-age home or community residence [9NYCRR 606.3(a)(141)].*
- B. A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.*
- C. A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independent of each other.*

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## **EXPOSED TO PUBLIC VIEW**

*Any premises or open space, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by any member of the public from a sidewalk, street, alleyway, open-air parking lot or from any adjoining or neighboring premises.*

## **EXTERIOR OF PREMISES**

*Those portions of a building that are exposed to public view and the open space of any premises outside of any building erected thereon.*

## **FENCE**

*A barrier intended to prevent escape or intrusion or to mark a boundary, such as a barrier made of posts and wire or boards; an artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the enclosure of yard areas.*

## **GARBAGE**

- A. Food wastes; refuse; the worthless or useless part of something; leavings; trash.*
- B. Wastes from the preparation, cooking or serving of food; market wastes; and wastes from the handling, storage and sale of produce.*

## **GOOD WORKING CONDITION**

*Fully operable for the use intended.*

## **GOOD WORKING REPAIR**

*A standard of maintenance that renders a building safe, habitable and possessed of a neat and orderly appearance.*

## **HEDGE**

*See "fence."*

## **JUNK**

*Any old, discarded or unused waste iron or other metal or substance, glass, paper, used lumber, rags, machine parts, accessories, machinery, machines, unregistered motor vehicles which are unfit for reconditioning, used parts of motor vehicles and any material commonly known and generally referred to as "junk" in the ordinary and accepted meaning of the word.*

## **JUNKYARD**

*Any tract of land within the City of Olean on which junk is placed, collected, stored,*

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*kept, maintained or located.*

## **OCCUPANT**

*The person in occupancy, in possession or in control of premises or using premises. [9NYCRR 606.3(a)(149)].*

## **OPERATOR or MANAGER**

*Any person who has charge, care or control of a building or part thereof.*

## **OWNER**

*The owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building [(9NYCRR 606.3(a)(154)].*

## **PERSON**

*Includes an individual, a partnership, a joint venture, a corporation, an association and any other organization recognized as an entity by the laws of the State of New York.*

## **POINT OF VIEW**

*For the purpose of § 12-5, Exterior standards, not personal opinion but line of sight of adjoining property owners to include front, rear and side views.*

## **PREMISES**

*A lot, plot or parcel of land, including the building or structure thereon. [9NYCRR 606.3(a)(162)].*

## **PROPERTY**

*Land and whatever is erected on, growing on, placed on or affixed thereto.*

## **REFUSE**

- A. Putrescible and nonputrescible solid waste consisting of organic or nonorganic materials but shall not include human or animal body waste.*
- B. All cardboard, plastic material or glass containers, wastepaper, rags, sweeping, pieces of wood, excelsior, rubber and like waste material.*

## **RUBBISH**

*Useless waste or rejected matter; noncombustible waste material. The term shall include the residue from the burning of wood, coal and coke; and also tin cans, metals, mineral matter, glass, crockery, dust and other noncombustible matters.*

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- A. *COMBUSTIBLE Paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding, dunnage and all other materials subject to burning.*
- B. *NONCOMBUSTIBLE Metal, tin cans, metal furniture, glass, crockery and minerals.*

### *SIGNS*

*A lettered board or other display used to identify or advertise a place of business; a posted command, warning or direction; something that serves to indicate the presence or existence of something; any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking or representation used as or which is in the nature of an announcement, direction or advertisement. A sign includes a billboard but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement or event which is temporary in nature.*

### *STRUCTURE*

*A combination of materials assembled, constructed or erected at a fixed location, including, for example, a building, stationary and portable carports and swimming pools, the use of which requires location on the ground or attachment to something having location on the ground.*

### *TRASH*

*Something worth little or nothing, as junk, rubbish; something in a crumbled or broken condition or mass; debris from pruning or processing plant material.*

### **§ 12-4 Provisions to be minimum standards; conflict with other provisions.**

- A. *This chapter establishes certain minimum standards for the initial and continued occupancy and use of all structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the structure, the premises or the equipment or facilities contained therein, as are required by the New York State Uniform Fire Prevention and Building Code.*
- B. *In any case where a provision is found to be in conflict with any applicable zoning, building, plumbing, electrical, heating, ventilation, fire or safety code of the City of Olean, County of Cattaraugus, State of New York or United States of America, the provision that establishes the higher standard, as determined by the Code Enforcement Officer, shall prevail.*

### **§ 12-5 Exterior standards.**

*The exterior of the premises and the condition of structures shall be maintained so that the premises and all buildings shall reflect a level of maintenance in keeping with the standards of the community and shall not constitute blight from the point of view of*

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*adjoining property owners or lead to the progressive deterioration of the neighborhood. Such maintenance shall include, without limitation, the following:*

- A. Foundations, porches, decks, steps and walls shall be in good condition.*
- B. Vent attachments shall be safe, durable, smoketight and capable of withstanding the action of flue gases.*
- C. Exterior balconies, porches, landings, stairs and fire escapes shall be provided with banisters or railings properly designed, installed and maintained to minimize the hazard of falling and unsightly appearance.*
- D. All permanent signs and billboards exposed to public view permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair. Any signs that have become excessively weathered, those upon which the paint has excessively peeled or those whose supports have deteriorated so that they no longer meet the structural requirements of the New York State Uniform Fire Prevention and Building Code shall, with their supports, be removed or put into a good state of repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supports, be removed. Signs denoting a business which is no longer on the premises shall be removed within 30 days of the date on which the business ceases to occupy the premises.*
- E. All storefronts and walls exposed to public view shall be kept in a good state of repair. Storefronts or any portion of the structure shall not show evidence of excessive weathering or deterioration of any nature. Unoccupied storefronts shall be maintained in a clean and neat appearance.*
- F. Any awnings or marquees and accompanying structural members shall be maintained in a good state of repair. In the event that said awnings or marquees are made of cloth, plastic or of a similar material and are exposed to public view, such material shall not show evidence of excessive weathering, discoloration, ripping, tearing, holes or other deterioration. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.*
- G. All vacant buildings shall be continuously guarded or sealed and kept secure against unauthorized entry. Materials and methods with which such buildings are sealed must meet the approval of the Code/ Health Enforcement Officer as to color, design and building material. Owners of such buildings shall take such steps and perform such acts as may be required to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public and that such property does not become infested with vermin or rodents.*
- H. Exterior walls, including doors and windows and the areas around doors, windows, chimneys and other parts of the building, shall be so maintained as to keep water from entering the building. Materials which have been damaged or show evidence of dry rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner.*
- I. All exposed exterior surfaces shall be maintained free of broken or cracked glass,*



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*loose shutters, railings, aerials, peeling paint or other conditions reflective of deterioration or inadequate maintenance. (Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.) Wood, masonry or other exterior materials that will naturally resist deterioration do not have to be treated but must be maintained in a neat, orderly, serviceable manner.*

- J. Roof drains, overflow pipes, air-conditioning drains and any other device used to channel water off or out of a building shall be maintained in a safe and operable condition and shall not drain onto a public sidewalk, walkway, street, alleyway or adjoining property, and shall be conveyed to an adequate and approved system of storm water disposal where available. Where a drainage system may be subject to backwater, suitable provision shall be made to prevent its overflow into the building.*
- K. Lawns shall be cut and bushes, shrubs and hedges shall be trimmed regularly during the growing season so as to avoid an unsightly appearance in accordance with all relevant provisions of the The City Code.*

## **§ 12-6 Open areas and parking spaces.**

- A. Surface or subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, storm water sewers or other satisfactory drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage shall create a structural, safety or health hazard by reason of construction, maintenance or manner of discharge.*
- B. Fences and other minor construction shall be maintained in a safe and substantial condition.*
- C. Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement carried out.*
- D. Yards and vacant lots shall be kept clean and free of physical hazards and rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded from access by the public. All temporary excavations shall be kept covered or barricaded so as to protect the general public from injury.*
- E. All land must be kept free of dead or dying trees and accumulations of brush, shrubs, weeds, grass, stumps, roots, excessive and/or noxious growths, garbage, refuse or debris which would either tend to start a fire or increase the intensity of a fire already started or cause poisoning or irritation to people or animals or cause or tend to cause or enhance an unhealthy or dangerous or obnoxious condition on said property or on any adjacent or neighboring property.*
- F. Unpaved parking areas which accommodate three or more vehicles shall be treated and maintained so as to eliminate dust.*

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## **§ 12-7 Dwelling Units: Cooking and Refrigeration; Keeping of Dogs and Cats.**

- A. *Each dwelling unit shall be provided with appropriate cooking and refrigeration equipment. Cooking and refrigeration equipment shall be maintained in good operating condition. All Gas-burning cooking equipment shall be permanently fastened and connected in place with any gas supply connection to such equipment in compliance with the relevant Code provisions. Solid fuel-burning cooking equipment shall be appropriately vented.*
- B. *No dwelling unit shall harbor more than four cats or dogs or the aggregate total of such animals, except the harboring of a litter of more than four dogs shall be permitted for a period not to exceed six months and harboring a litter of more than four cats shall be permitted for a period not to exceed three months.*

## **§ 12-8 Business units.**

- A. *Business units shall at all times be maintained in compliance with the provisions of this chapter regulating open spaces, buildings or structures and littering.*
- B. *No outside storage or accumulation of garbage, crates, rubbish, refuse or debris shall be permitted at any time, and all such garbage, crates, rubbish, refuse or debris shall be kept inside the building or buildings on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.*
- C. *No shopping baskets, carts or wagons shall be left unattended or standing in open areas, and the same shall be collected at the close of business each day by the occupant of such unit and moved off to the interior of the building or buildings. No one shall take a shopping basket, cart or wagon off the premises without permission of the owner and/or a manager.*
- D. *No mobile refrigeration unit shall be operated on the premises after the closing of the business conducted thereon unless such mobile refrigeration unit is electrically operated, except in an industrial zone.*
- E. *All fences and planting areas installed on the premises shall be maintained by the owner of the property. Such maintenance shall include but not be limited to the replacement of trees and shrubs which may die and/or otherwise be destroyed, the maintenance and cutting of lawns and the replacement and/or repair of fences which may become in disrepair.*
- F. *Persons owning or occupying property shall keep all walkways, public or private, abutting said premises free from litter and trash of whatever nature.*

## **§ 12-9 Infestation, storage and screening.**

- A. *Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform to generally accepted practice.*

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- B. Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be closed or appropriately screened with wire mesh or other suitable materials.*
- C. No materials, goods or supplies may be stored in any front yard or in an exterior or interior side yard. Materials may be stored in a rear yard, provided that the area used for storage is screened from neighboring properties by a fence or hedge and that the method and manner of storage complies with the other provisions hereof.*

### **§ 12-10 Litter; Garbage and Refuse;**

- A. Residential, commercial and industrial premises, whether improved or vacant, shall be maintained free of litter; provided, however, that this section shall not prohibit the storage of litter in appropriate private receptacles for collection.*
- B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the provisions of applicable codes. Each owner of any building from which garbage, rubbish, mixed refuse, ashes or other wastes are collected shall provide refuse containers sufficient in number to hold all collectible wastes which may accumulate. Containers must be rodent proof and insect proof and watertight and must be kept covered at all times. Such containers must not be kept in a front yard or exterior side yard, except for the day of collection as determined by the collections schedule set forth by the Department of Public Works.*
- C. No refrigerator may be discarded, abandoned or stored in a place accessible to children without first completely removing any locking or latching devices and all doors.*
- D. Dumpsters and similar large receptacles shall be shielded from the public view by means of appropriate landscaping, hedges, fences or screening. This subsection shall not apply to receptacles for clothing and the like donated to charity and temporary construction, demolition dumpsters and similar receptacles.*
- E. Shopping centers, supermarkets and similar business units shall provide permanent, attractive, decorated litter receptacles within the premises for public use in sufficient quantity so that a person will not have to walk in excess of 50 feet to use any such receptacle.*

### **§ 12-13 Incinerators; Liquefied Petroleum Gas**

- A. The use of incinerators shall be prohibited in the City of Olean.*
- B. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in buildings. Liquefied petroleum gas shall not be vaporized by devices utilizing open flame or open electrical coil. Where two or more containers are installed, connection shall be arranged so that containers can be replaced without shutting off the flow of gas to equipment. Containers shall be designed, stored, and located outside the building, so as not to be a hazard to the premises served or to the surrounding property. Systems shall be provided with safety devices to relieve excessive pressures, and such systems shall be arranged so*

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*that the discharge terminates at a safe location. Systems shall have at least one accessible means for shutting off the gas. Such means shall be located outside the building and shall be maintained in good operating condition.*

### **§ 12-14 Responsibilities of occupants.**

*An occupant of premises shall be responsible for compliance with this chapter in regard to the following:*

- A. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.*
- B. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which he occupies or controls in a clean and sanitary condition and providing reasonable care in the operation and use thereof.*
- C. Keeping exits from the building or occupant's portion thereof clear and unobstructed.*
- D. Disposal of garbage and refuse into appropriate facilities in a clean and sanitary manner, in accordance with any applicable provisions of the City code.*
- E. Maintenance of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation by rodents or vermin, insofar as said occupant occupies or controls said yards, lawns or any parts thereof.*
- F. The installation and removal of required screens.*
- G. Keeping domestic animals and pets in an appropriate manner and under control, in accordance with any other regulation of the city.*
- H. Elimination of all prohibited uses for that part of the premises which he occupies, controls or has accessibility thereto.*

### **§ 12-15 Responsibilities of owners; persons considered to be owners.**

- A. Owners of premises shall be responsible for compliance with the provisions of this chapter and shall remain responsible therefore regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.*
- B. Owners and operators of building shall be responsible for the proper installation, maintenance, condition and operation of service facilities and for furnishing adequate heat and hot-water supply where they have contracted to do so.*
- C. Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the city as executor, administrator, trustee, guardian, operator or agent, such persons shall be deemed and taken to be the owner or owners of said property within the intent and meaning of this chapter and*

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*shall comply with the provisions of this chapter to the same extent as the record owner; and notice to any such person of any order or decision of the Code Enforcement Officer shall be deemed and taken to be good and sufficient notice, as if such person or persons were actually the record owner or owners of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one or more violations of this chapter, said occupant shall be deemed and taken to be an owner within the intent and meaning of this chapter.*

## **§ 12-16 Property under construction.**

- A. *For purpose of enforcement of this chapter, if work is being done on the property, either the prime or general contractor or the owner shall be held responsible.*
- B. *Materials may be stored in any area of the property upon which construction is being carried on, provided that the method of storage and the materials stored are in compliance with the requirements of this chapter. In no event shall such storage be permitted for a period exceeding one year.*
- C. *Drainage crossing the property being developed must be maintained during the period of development, and no materials may be stored, land disturbed or other work done to interfere with drainage or to divert or cause runoff of groundwater or storm water in an unnatural fashion.*
- D. *The person responsible as herein shall take all necessary and reasonable steps to ensure that there will not be an unusual or unwarranted amount of dust and debris blown onto or across neighboring or nearby properties.*
- E. *Construction roads must be oiled or kept wet or properly treated to decrease the spread of dust and mud.*
- F. *A temporary cover, such as rye grass or a mulch, must be applied on land that has been stripped of its protective vegetation during the course of its construction to prevent the spread of dust and mud.*
- G. *All excavations in or near a public or private walkway or street must be properly guarded and protected at all times by lights, flags, barricades or other warnings sufficient in kind and amount to warn the public of the danger of falling into the excavation.*
- H. *Temporary electrical service must be through electric lines that are weather and waterproof, such lines must not cross public walkways or highways on the ground, nor shall they be placed on the ground in areas subject to construction equipment traffic.*
- I. *Grounds and buildings must be kept free of debris such as broken glass, boards with fastenings protruding and other articles making travel around the job site dangerous and unsafe.*

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### **§ 12-17 Administration**

- A. *The fire chief is authorized to make and adopt such written rules and regulations as may be necessary for the proper enforcement and interpretation of this chapter, and to secure the intent thereof. Such rules and regulations shall not be in conflict with the provisions of this chapter, or any other ordinance of the city, nor shall they have the effect of waiving any provisions of this chapter or any other ordinance. Such rules and regulations shall have the same force and effect as the regulations of this chapter. The penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter, as provided in this article. Such rules and regulations shall be submitted to the common council by the fire chief. Failure of the common council to approve, reject, or modify such rules and regulations within 30 days after submission shall be deemed to constitute approval thereof. Such rules shall be on file and available as a matter of public record in the city clerk's office.*
- B. *No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties pursuant to this chapter. Any suit brought against any officer, agent, or employee of the city, as a result of any act required or permitted in the discharge of his duties pursuant to this chapter, shall be defended by the city attorney until the final determination of the proceedings therein.*

### **§ 12-18 Inspection and Enforcement.**

- A. *The Code Enforcement Officer and or his designee is hereby authorized and directed to make inspections to determine compliance with this chapter. Inspections shall be made between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, or at such other times as may be necessary in an emergency and every operator or owner shall cooperate with the Code Enforcement Officer in providing access to the premises. It shall be unlawful for any person to refuse entrance to or to impede an inspector or officer authorized pursuant to this article in the performance of his duties. Every such inspector or officer shall have the right to enter, examine, and survey all premises, grounds, structures, dwellings, multifamily dwellings or rooming houses and every part thereof at all reasonable times, or at such other times as may be necessary in an emergency, upon display of proper identification. If any owner, occupant, or other person in charge of a dwelling, dwelling unit, rooming unit, multifamily dwelling or rooming house subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to every part of the structure or premises where inspection authorized by this article is sought, the administrative authority may seek, in a court of competent jurisdiction, an order that such owner, occupant, or other person in charge cease and desist with such interference. Upon failure of the Owner or Operator to allow the Code Enforcement Officer access to the premises for inspections, the Code Enforcement Officer shall have the authority to apply to the Olean City Court for an administrative search warrant to compel compliance with this section.*

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- B. Whenever the Code Enforcement Officer determines that there is a violation of the provisions of this chapter, he shall cause a written notice to be served upon the owner or operator, which shall include:*
- (1) An enumeration of conditions which violate the provisions of this chapter.*
  - (2) An enumeration of the remedial action required to meet the standards of this chapter.*
  - (3) A statement of a definite number of days from the date of the notice in which the owner or operator must commence and complete such remedial action.*
  - (4) A statement of the penalties for noncompliance, as set forth herein.*
- C. A copy of such notice shall be filed in the City Clerk's office, and such notice shall be deemed sufficient if served upon the owner or operator as follows:*
- (1) In person;*
  - (2) By first class mail to the address to which the City Tax Bills are mailed and by posting a copy of said notice on the building*
- D. Upon failure to comply with said notice, the Code Enforcement Officer shall issue an appearance ticket returnable in the City Court.*
- E. The city attorney shall, upon complaint of the Fire Chief, Code Enforcement Officer, or upon his own motion, institute appropriate action to restrain, prevent, enjoin, abate, correct, or remove such violation, and to take such other legal action as is necessary to carry out the terms and provisions of this chapter. The remedies provided for in this article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. All remedies may be pursued concurrently or consecutively, and the pursuit of any remedy shall not be construed as an election or the waiver of the right to pursue any and all of the others.*

### **§ 12-19 Penalties for offenses.**

*A violation of any provision of this chapter shall be an offense punishable by a fine not less than \$50 and no more than \$1000.00 or no more than 15 days in jail. For the purposes of this chapter, each day continued existence of a violation shall constitute a separate violation.*

### **§ 12-20 Demolition as compliance of chapter.**

*Any owner of a building receiving a notice of violation stating that such building does not comply with the provisions of this chapter may demolish such building, and such action shall be deemed compliance. On demolishment, all utilities shall be properly disconnected by the owner, operator, agent, or occupant.*

### **§ 12-21 through § 12-49 Reserved.**

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## **ARTICLE II: CERTIFICATE OF OCCUPANCY**

### **§ 12-50 Purpose.**

*There is hereby adopted by the City of Olean, for the purpose of prescribing regulations governing the use and occupancy of commercial and residential structures in the City of Olean a certain code as hereinafter set forth.*

### **§12-51 Application and Severability.**

- A. The fire chief is authorized to make and adopt such written rules and regulations as may be necessary for the proper enforcement and interpretation of this chapter, and to secure the intent thereof. Such rules and regulations shall not be in conflict with the provisions of this chapter, or any other ordinance of the city, nor shall they have the effect of waiving any provisions of this chapter or any other ordinance. Such rules and regulations shall have the same force and effect as the regulations of this chapter. The penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter, as provided in this article. Such rules and regulations shall be submitted to the Common Council by the fire chief. Failure of the common council to approve, reject, or modify such rules and regulations within 30 days after submission shall be deemed to constitute approval thereof. Such rules shall be on file and available as a matter of public record in the city clerk's office.*
- B. If a provision of this chapter is found to be inconsistent with any provision of other chapters of the City Code or Charter, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail. A greater penalty shall not be considered as more restrictive or a higher standard.*
- C. If any part, provision, section, subdivision, paragraph, or term of this chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining chapter, parts, provisions, sections, subdivisions, paragraphs, or terms.*

### **§12-52 Definitions.**

*Whenever used in this Article, unless otherwise expressly stated or unless the context or subject material requires a different meaning, the definitions as contained Chapter 12, Article I, Section 12-3 shall apply to the terms and previsions herein.*

### **§12-53 Inspection and Certification Required.**

- A. All premises located in the City of Olean shall be inspected and certified by the Code Enforcement Department which shall determine compliance with, administer and enforce all applicable provisions of this chapter, the City Code, and the New York State Uniform Fire Prevention and Code Enforcement Code (hereinafter "Uniform Code") upon the occurrence of the following:*
  - 1. The transfer of title if a Certificate of Occupancy has not been previously been issued within the preceding twelve months.*
  - 2. A change of occupancy or use other than that which is governed under Article III of this Chapter.*



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3. *A change in the occupied status of a one or two family exempted property where the structure is no longer occupied by the owner or the spouse, child, parent or sibling of the owner.*
- B. *Except as otherwise provided herein, it shall be unlawful and a violation of this chapter to transfer, rent, lease, or otherwise allow the occupancy of any premises without the inspection and certification required herein.*
- C. *If, upon inspection, said premises do not comply with all applicable provisions of this Code or the Uniform Code, the specific reasons for noncompliance shall be specified in writing and a time limit, not to exceed 30 days, shall be directed for the correction of, or the substantial effort to correct, the deficiencies noted. The notice of noncompliance shall be delivered personally or by mail within seven business days to the owner, agent or person in charge at the address set forth on the City Tax Bill and to any occupant who so requests.*
- D. *The officials charged with conducting the inspection shall make such inspection, access and circumstances permitting, within five business days of receipt of a request from the owner or agent of the owner.*
- E. *No occupancy certificate shall be issued under this article unless the applicable fee(s) required under this chapter is paid in full to the Department.*

### **§12-54 Fees.**

- A. *The fee for an occupancy certificate issued under this Article II shall be \$60.00.*
- B. *Should a premises fail inspection, the initial re inspection shall be free of charge; however, each subsequent re inspection thereafter necessary to issue said certificate shall result in a re inspection fee of \$25 per re inspection.*

### **§12-55 Penalties for offenses.**

*Any violation of any provision of this chapter, or any provision of any rule or regulation adopted by the enforcement officer pursuant to authority granted by this chapter, shall be deemed an offense and any person found guilty thereof shall be liable to a fine which shall not be less than \$250 and not to exceed \$1,000, or imprisonment not to exceed 15 days, or to both such fine and imprisonment, and each day's failure to comply with such provision, rule or regulation shall constitute a separate violation.*

### **§12-56 through §12-69 Reserved.**

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## **ARTICLE III: RENTAL DWELLING REGISTRATION AND RENTAL OCCUPANCY PERMITS**

### **§ 12-70 Legislative findings.**

*The Common Council of the City of Olean hereby finds and declares that there exist in the City rental housing properties which are, or may become in the future, substandard with respect to structure and maintenance thereof or, further, that conditions, including but not limited to structural deterioration, lack of maintenance, the appearance of the exterior of the premises, the existence of fire hazards and unsanitary conditions, constitute a menace to the health, safety, welfare and reasonable comfort of the residents and inhabitants of the City. It is further found and declared that, by reason of lack of maintenance and progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and, that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate same. By reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the immediate neighborhood and property values thereby maintained the desirability and amenities of rental housing properties and immediate neighborhoods enhanced and the public health, safety and welfare protected and fostered. The City of Olean further wishes to achieve the following beneficial purposes:*

- A. The protection of the character and stability of residential areas;*
- B. The correction and prevention of housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying dwellings;*
- C. The enforcement of minimum standards for heating, plumbing and other sanitary equipment necessary for health and safety;*
- D. The enforcement of minimum standards for light and ventilation necessary for health and safety;*
- E. The enforcement of minimum standards for the maintenance of existing residential buildings and the prevention of slum and blight conditions;*
- F. The preservation of the value of land and buildings throughout the City.*

### **§ 12-71 Definitions; word usage.**

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

- A. As used in this Article, the following terms shall have the meanings indicated unless a different meaning is indicated clearly by the context, as used in this Code:*

#### **ACCESSORY BUILDING**

*A structure, the use of which is incidental to that of the main building, and which is attached thereto or located on the same premises.*

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## *BASEMENT*

*That portion of a building partly or completely below grade. (See "story above grade.")*

## *BUILDING*

*A structure, wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.*

## *CELLAR*

*A portion of a building located partly or wholly underground and having 1/2 or more than 1/2 of its clear floor-to-ceiling height below the average grade of the adjoining ground.*

## *DETERIORATION*

*The condition or appearance of a building, or any part thereof, characterized by holes, rot, breaks, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, excessive use or lack of maintenance.*

## *DWELLING*

*Any structure designed for use by human occupants for sleeping and living purposes.*

## *DWELLING, MULTIPLE*

- A. A building containing three or more dwelling units; building containing living, sanitary and sleeping facilities occupied by one or two families and more than four lodgers residing with either one of such families; a building with one or more sleeping rooms, other than a one- or two-family dwelling, used or occupied by permanent or transient paying guests or tenants; a building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority or for similar uses; a building used or occupied as an old-age home or community residence [9NYCRR 606.3(a)(141)].*
- B. A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.*
- C. A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independent of each other.*

## *DWELLING UNIT*

*A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.*

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## **ENFORCEMENT OFFICER**

*A Code Enforcement or Building Inspector of the City of Olean, or his designated qualified representative, any officer of the Olean Police Department, any professional firefighter of the Olean Fire Department, the City Attorney and The County Health Department when their assistance is requested by the enforcement officer.*

## **EXPOSED TO PUBLIC VIEW**

*Any premises or open space, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by any member of the public from a sidewalk, street, alleyway, open-air parking lot or any adjoining or neighboring premises.*

## **EXTERIOR OF PREMISES**

*Those portions of a building that are exposed to public view and the open space of any premises outside of any building erected thereon.*

## **EXTERMINATION**

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

## **FIRE HAZARD**

*Anything or act which increases, or may cause an increase in, the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fires, or which may obstruct, delay or hinder, or may become the cause of an obstruction, delay or hindrance to the prevention, suppression or extinguishment of fires, or any fire hazard identified in these codified ordinances. See also "nuisance."*

## **GARBAGE**

- A. *Food wastes; refuse; the worthless or useless part of something; leavings; trash.*
- B. *Wastes from the preparation, cooking or serving of food; market wastes; and wastes from the handling, storage and sale of produce.*

## **HABITABLE ROOM**

*A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundry, pantries, foyers, or communicating corridors, closets and storage spaces.*

## **INFESTATION**

*The presence, within or around a dwelling, of any insects, rodents, or other pests.*

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## **MANAGING AGENT**

*As defined under Section 6-80(d) of the Olean City Code of Ordinances.*

## **MULTIPLE DWELLING OWNER OCCUPIED**

*One or two family property where the structure is occupied by the owner or the spouse, child, parent or sibling of the owner*

## **NUISANCE**

*Any public nuisance known as provided by the statutes of the state or ordinance of the City; conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist and where the condition is made perilous by active and negligent operation thereof; unsanitary conditions or anything dangerous to health, in violation of this Code; and Fire hazards.*

## **OCCUPANT**

*The person in occupancy, in possession or in control of premises or using premises.*

## **OWNER**

*The owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building [(9NYCRR 606.3(a)(154)].*

## **PERSON**

*Includes any individual, firm, corporation, association, or partnership.*

## **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.*

## **PREMISES**

*A lot, plot or parcel of land, including the buildings or structures thereon.*

## **REFUSE**

- A. *Putrescible and nonputrescible solid waste consisting of organic or nonorganic materials but shall not include human or animal body waste.*
- B. *All cardboard, plastic material or glass containers, wastepaper, rags, sweeping, pieces of wood, excelsior, rubber and like waste material.*

## **RESIDENTIAL HEATING FACILITIES**

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*Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68° F. (20° C.) in all habitable rooms, bathrooms and toilet rooms based on the winter design dry-bulb temperature for the locality indicated in Table 302.1 of the Energy Conservation Construction Code of New York State. Cooking appliances shall not be used to provide space heating to meet the requirements of this definition.*

## ROOMING HOUSE

*A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.*

## ROOMING UNIT

*Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.*

## RUBBISH

*Useless waste or rejected matter; noncombustible waste material. The term shall include the residue from the burning of wood, coal and coke; and also tin cans, metals, mineral matter, glass, crockery, dust and other noncombustible matters.*

- A. *COMBUSTIBLE Paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding, dunnage and all other materials subject to burning.*
- B. *NONCOMBUSTIBLE Metal, tin cans, metal furniture, glass, crockery and minerals.*

## STORY ABOVE GRADE

*Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is: More than six feet (1,829 mm) above grade plane; More than six feet (1,829 mm) above the finished ground level for more than 50% of the total building perimeter. More than 12 feet (3,658 mm) above the finished ground level at any point.*

## STRUCTURE

*A combination of materials assembled, constructed or erected at a fixed location, including, for example, a building, stationary and portable carports and swimming pools, the use of which requires location on the ground or attachment to something having location on the ground.*

## SUPPLIED

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

## TEMPORARY HOUSING

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

- B. *Meaning of certain words. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit" and "premises" are used in this chapter they shall be construed as though they were followed by the words "or any part thereof."*

## **§ 12-72 Rental dwelling unit registration.**

- A. *Registration required. No person shall occupy, or allow the occupancy of or rental to another for occupancy any dwelling unit unless the owner has first obtained a rental dwelling unit registration certificate as hereafter provided.*
- B. *Exemptions. The provisions of this Article shall not apply to owner-occupied with no more than one rental unit; hotels; motels; hospitals; nursing homes; or other dwelling units which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of users and patients.*
- C. *Application for registration. Within 90 days after the effective date of this Article, the owner of each dwelling unit existing on the effective date of this Article shall submit a properly completed rental registration form to the City of Olean Codes Department. Furthermore, the owner of any property, whether previously used as a rental or not, whether being a single-family or multifamily dwelling, must submit a properly completed rental registration form within 30 days of renting any dwelling unit.*
1. *Such form shall be furnished by the Code Enforcement Office and shall set forth the following information, in addition to the other information reasonably required by the Code Enforcement Office from time to time which may be necessary to administer, enforce, and insure compliance with the provisions of this chapter and the housing code:*
- a. *Name, principal residence address and telephone number of the owner.*
- b. *Each and every owner, principal member, or general partner, joint tenancy, tenancy in common or tenancy by entirety shall be indicated on the application and residence address in accordance with this section.*
- c. *If the owner is a corporation, the principal place of business of the corporation must be provided and the name, title and residence address of all officers, directors, managing or general agents must be included.*
- d. *If the owner has designated a managing agent or managing company, then the name, principal residence address and telephone number of such agent or managing company must be included in addition to that of the owner. The managing company must also supply its principal business address and telephone number.*

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- e. *It shall be the responsibility of the owner to properly register any change of address, managing agent or any other information which occurs after the filing of the application.*
  - f. *For purposes of this section, a post office box shall not be accepted as the owner's physical address. A post office box may be designated as an address to be provided as required in this section. The building intended to be registered shall not be accepted as the owner's address unless it is the principal place of business or primary residence of the owner.*
  - g. *The owner shall specify the address to which all notices of violation issued pursuant to this chapter and other violations of the housing codes are to be forwarded.*
2. *If the owner does not actually reside within 20 miles of the City of Olean, or have a regular place of business within the City of Olean, they must have a managing agent who actually resides within 20 miles of the City of Olean, or have a regular place of business within the City of Olean.*
  3. *Failure to provide the aforementioned information shall be deemed an offense and shall be penalized upon notice to the owner pursuant to this chapter.*
- D. *Term of rental dwelling unit registration.*
1. *A rental dwelling unit registration pursuant to this chapter shall expire three years after the date it is issued. Renewal shall be due within 30 days prior to the expiration of the rental registration.*
- E. *Revocation of rental dwelling unit registration certificate. A rental dwelling unit registration certificate issued pursuant to this chapter may be revoked by the code enforcement official for any of the following reasons:*
1. *Fraud, misrepresentation or a false statement as to material fact in the application;*
  2. *A finding that a rental dwelling unit registration was issued in error and not in accordance with applicable law;*
  3. *A violation of any provision of this chapter, including noncompliance with a notice of violation.*

**§ 12-73 Required inspections and status reports.**

- A. *All rental housing properties are subject to inspection by the City of Olean at the change of occupant unless otherwise exempt under this section. At the time of such inspection, all interior and exterior parts of the rental housing property must be available and accessible for such inspection, and the owner/managing agent/occupant are required to provide the necessary arrangements to facilitate such inspections. Such inspection shall be made between 8:00 a.m. and 5:00 p.m., unless there exists a violation of a character which is an immediate threat to health and safety, requiring inspection and abatement without delay.*
- B. *Application for inspection. Whenever an owner/managing agent or bona fide occupant shall apply to the City of Olean Codes Department for an inspection in*



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*order to ascertain if any section of this Code has been violated, the Codes Department shall, upon payment of the fee hereunder stated, cause an inspection to be made of the premises and issue either an Occupancy Certificate or a report of the inspection to the applicant, indicating therein any violations at the premises. The applicant for such inspection shall state, in writing, his or her full name, residence address and the reasons and basis for which the inspection is requested. The application may be denied for failure to comply with this requirement. Upon a passed inspection the property owner shall be issued a Certificate for rental occupancy by the City of Olean Codes Department. This certificate is nontransferable; it is only valid for the tenant in which the application was made.*

- C. Application for status report. Where an owner/managing agent/occupant or bona fide prospective occupant requests a status report as to whether or not there are any known violations presently pending on the premises, upon payment of the fee prescribed herein and a written request, a copy of any notice or order on any violation then pending shall be sent to the applicant.*
- D. The enforcement officer is hereby authorized and directed to make inspections to determine whether the condition of dwellings, dwelling units and rooming units and premises located within the City of Olean are in compliance with the requirements of this chapter. For that purpose and in order that he may perform his duty of safeguarding the health and safety of the occupants of such dwellings and the general public, the enforcement officer is hereby authorized to enter, examine and survey at reasonable times all dwellings, dwelling units and premises with permission of the occupant and subsequent notification being given to the owner. However, such inspections shall be made upon request to the occupant of the premises to be inspected and at the convenience of such occupant. In the event that access to such dwelling or premises cannot be obtained upon request to the occupant and after reasonable effort to obtain access by permission, the enforcement officer, if he has reason to believe said dwelling unit for the inspection of which permission has been refused or has not been given after reasonable request is in violation of one or more of the provisions of this chapter, may apply to a court of competent jurisdiction upon affidavit for an order directing that the said enforcement officer have access to said dwelling or premises for the purpose of making his inspection. The court, if satisfied from the papers presented to it that there is reasonable ground to believe that the aforesaid dwelling or premises may be in violation of one or more of the provisions of this chapter, shall grant and issue an order directed to the occupant and owner of said dwelling or premises requiring that the enforcement officer be admitted thereto for the purpose of making the inspection provided for in this chapter. The enforcement officer shall thereupon proceed to make such inspection.*

## **§ 12-74 Refused access; search warrants or access warrants; enforcement; service of notices and orders.**

- A. Refused access. Where the City of Olean is refused access or is otherwise impeded or prevented by the owner/managing agent/occupant from conducting an inspection of a rental housing property, such person shall be in violation of this Code and subject to the penalties hereunder.*
- B. Search warrants or access warrants. In addition to the provision of this section, the City of Olean may, upon affidavit, apply to the Olean City Court or any court*

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*of competent jurisdiction for a search warrant, setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this Code exists on the premises. If the Court is satisfied as to the matter set forth in the affidavit, the Court may authorize the issuance of a search warrant permitting access to the inspection of that part of the premises on which the nuisance or violation exists. A warrant for access may be issued by the Court upon an affidavit of any employee of the City establishing grounds therefore.*

- C. Whenever the enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter or of any rule or regulation adopted pursuant thereto in any building, dwelling unit or property, there shall be issued a notice of violation pursuant to Criminal Procedure Law §150.40 and Civil Practice Law and Rules § 308 or other applicable laws.*
- D. Such notice shall be put in writing, specifically state the location of the subject property, and state the specific violation of the chapter.*

## **§ 12-75 Minimum standards for basic equipment and facilities.**

*No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:*

- A. Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the City of Olean*
- B. Every dwelling unit (except as otherwise permitted under Subsection D of this section) shall contain, amongst its rooms which affords privacy, a flush water closet and a lavatory basin in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the City of Olean.*
- C. Every dwelling unit (except as otherwise permitted under Subsection D of this section) shall contain, within a room which affords privacy to a person within said room, a bathtub or shower in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the Olean.*
- D. The occupants of two or more dwelling units may share a single flush water closet, a single lavatory basin and a single bathtub or shower if: the total number of rooms of such dwelling units shall not exceed eight and the total number of occupants shall not exceed six. Such water closet, lavatory basin and bathtub or shower shall be in good working condition and properly connected to a potable water supply and to a sewer system in a manner to comply with the Plumbing Code and the ordinances of the City of Olean.*
- E. Every kitchen sink, lavatory basin and bathtub or shower required under the provisions of Subsections A, B, C and D of this section shall be properly connected with both hot and cold water lines.*

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- F. Every dwelling unit shall have adequate rubbish and garbage storage facilities as well as containers, type and location of which are a kind sufficient to meet the requirements of the Code of the City of Olean.*
- G. Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required by this section, and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature capable of maintain a temperature of not less than 120° F. Such supplied water-heating facilities shall be capable of meeting the requirements of this subsection when the dwelling or dwelling unit heating facilities, required under the provisions of § 310-7E of this chapter, are not in operation.*
- H. Every dwelling unit shall have safe, unobstructed means of egress leading to safe and open space at ground level as required by New York State Law.*

## **§ 12-76 Minimum standards for light, ventilation and heating.**

*No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:*

- A. Every habitable room shall have at least one window or skylight facing directly to the outdoors. Whenever walls or other portions of structures face a window of any such room and such light obstruction structures are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.*
- B. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room.*
- C. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in Subsections A and B, except that no window or skylight shall be required in bathrooms and water closets adequately equipped with a ventilation system approved by the enforcement officer and kept in continuous operation.*
- D. Where there is electric service available from power lines which are not more than 300 feet away from a dwelling, where practicable every habitable room of such dwelling shall contain at least one electric convenience for every 20 linear feet (or major fraction) of the total distance around the room as measured horizontally along the wall at the floor line. Such receptacles shall not be a part of a fixture for computation. Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in a safe manner.*

*Over current protection. Fuse holders for plug fuses of 30 amperes or less shall not be installed unless they are of the Type S with the adaptor inserted or of the Type S construction. Fuses or circuit breakers shall not exceed wire (conductor) capacity of the circuit.*

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*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 the lighting circuits; if only one lighting circuit is in existence, all new additional outlets shall be installed on a new circuit (or circuits).*

*In a multiple-occupancy building, each occupant shall have access to his disconnecting means and overcurrent protection at all times, without locks or through other occupancies.*

- E. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guestrooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 15 to May 31 to maintain a temperature of not less than 68° (20° C.) in all habitable rooms, bathrooms, and toilet rooms*
- F. 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 solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.*
- G. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.*

## **§ 12-77. General maintenance requirements.**

*No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:*

- A. Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight and rodent-proof, shall be capable of affording privacy and shall be kept in good repair.*
- B. Every window, exterior door and basement hatchway shall be reasonably weather tight, watertight and rodent-proof and shall be kept in sound working condition and good repair.*
- C. Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.*
- D. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.*
- E. Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition. Nothing contained herein shall be deemed to prohibit the maintenance of wooden floors in such rooms, provided such floors are as impervious to water as may reasonably be required to well-maintained wood floors.*

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- F. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.*
- G. No owner, operator or occupant shall cause any service, facility equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alteration are in process or during temporary emergencies.*
- H. No owner shall occupy or let to any other occupant any vacant dwelling unit unless it complies with the provisions of this chapter.*

## **§ 12-78 Minimum space, use and location requirements.**

*No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:*

- A. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.*
- B. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof, except that where the occupants of such room are all less than 15 years of age, a room having at least 120 square feet of floor space may be occupied by additional persons, provided that the floor space per occupant does not become less than 35 square feet.*
- C. No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment, except that where such a dwelling unit is occupied only by a husband and wife, or a husband and wife and child or children under the age of 13, this section shall not apply.*
- D. At least 1/2 of the floor area of every habitable room shall have a ceiling height of at least seven feet, and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.*
- E. No cellar space shall be used as a habitable room or dwelling unit.*
- F. No basement space shall be used as a habitable room or dwelling unit unless: The floor and walls are impervious to leakage of underground and surface water and are insulated against dampness; The total of window area in each room is equal to at least the minimum window area sizes as required in this chapter; Such required minimum window area is located entirely above the grade of the ground and adjoining such window area.*

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- G. *The provisions of this section shall only apply to new construction and to existing homes which are to be remodeled.*

### **§ 12-79 Responsibilities of owners and occupants.**

- A. *Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.*
- B. *Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.*
- C. *Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish containers required by the Olean City Code*
- D. *Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by this chapter. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units.*
- E. *Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the homeowner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.*
- F. *Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.*

### **§ 12-80 Rooming houses.**

*No person shall operate a rooming house or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of this chapter.*

- A. *No person shall operate a rooming house unless he holds a valid rooming house permit issued by the Code Enforcement Officer in the name of the operator and for the specific dwelling or dwelling unit. The owner shall apply to the enforcement officer for such permit, which shall be issued by the enforcement officer upon compliance by the owner with the applicable provisions of the Olean City Code of Ordinances. This permit shall be displayed in a conspicuous place within the rooming house at all times.*

*No such permit shall be transferable. Every person holding such a permit shall give notice, in writing, to the enforcement officer within 24 hours after having*

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*sold, transferred, given away or otherwise disposed of ownership or interest in or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every such permit shall be renewable annually upon written application to the enforcement officer at least three days before the expiration of one year from its issuance or last renewal, unless such permit is subject to revocation for violation of this chapter or other ordinances or law applicable to said premises.*

- B. Any person whose application for a permit to operate a rooming house has been denied may require and shall be granted a hearing on the matter before the Zoning Board of Appeals.*
- C. Whenever, upon inspection of any rooming house, the enforcement officer finds that conditions or practices exist which are in violation of any provision of this chapter or any other law or any other ordinance of this City, the enforcement officer shall give notice, in writing, to the owner of such rooming house that unless such conditions or practices are corrected within a reasonable period, to be determined by the enforcement officer, the owner's rooming house permit will be suspended. At the end of such period, the enforcement officer shall re-inspect such rooming house, and if he finds such conditions or practices have not been corrected, he shall issue a violation pursuant to this chapter.*
- D. At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the enforcement officer and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities; provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than 1/2 the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement, except by written approval of the enforcement officer.*
- E. The owner of every rooming house shall change supplied bed linen and towels therein at least once each week and prior to the letting of any room to any occupant. The owner shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.*
- F. Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.*
- G. Every rooming unit shall have safe, unobstructed means of egress leading to safe and open spaces at ground level as required by the laws of this state and the City of Olean.*
- H. The owner of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for maintenance of a sanitary condition in every other part of the rooming house, and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the owner.*

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- I. *Every provision of this chapter which applies to rooming houses shall also apply to hotels, except to the extent that any such provision may be found in conflict with the laws of this state or with the lawful regulations of any state board or agency.*

**§ 12-81 Designation of unfit dwellings; condemnation.**

*The designation of dwellings or dwelling units as unfit for human habitation and the procedure of the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the City of Olean and New York State codes.*

**§ 12-82 Inspections and rental occupancy permits.**

- A. *No person shall occupy, and no owner or managing agent shall permit a person to occupy a rental dwelling unit unless a City of Olean has issued to the owner or managing agent a certificate of rental occupancy permit for such rental unit.*
- B. *Application for a rental occupancy permit shall be made separately for each rental unit by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the City of Olean Codes Department. Such information shall include but need not be limited to the following:*
1. *The name, address and telephone number of the owner of the rental housing property;*
  2. *The name, address and telephone number of the managing agent of the rental unit if one is required;*
  3. *The address of the rental housing property and the number of the rental unit; The current name, address, business and/or home telephone number of the person(s) who, since the last application, shall be residing/occupying the rental housing unit;*
  4. *Number of people to be residing in the rental unit;*
  5. *Such other information as may be requested on the application as determined by the Fire Chief.*
- C. *The City of Olean may revoke a rental occupancy permit if any false statement appears in the application or if the information contained in the application is inaccurate.*
- D. *Upon a passed inspection of the rental housing unit, the City Olean shall issue a rental occupancy permit. In the case of a failed inspection, the property owner shall have a time period not to exceed 10 days from the date of inspection to make the necessary corrections unless, for good cause shown, the City of Olean has extended the time for completion.*
- E. *Frequency and schedule of inspections for rental occupancy. The City of Olean Code Enforcement Department is hereby directed to conduct an inspection of all rental housing units in single-family, two-family and multifamily dwelling structures, except the interior of an owner-occupied dwelling unit, at each change of occupant occurring after June 1, 2018 and every vacancy and re-rental thereafter. If the owner/ managing agent/occupant refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the*



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*City of Olean shall not make such inspection without first obtaining a search warrant.*

## **§12-83 Conflict with other provisions; severability.**

- A. *Except as otherwise specifically provided, in the event any provision of this Article shall be in conflict with any statute, ordinance, or regulation governing land and property, the provision which establishes the higher standard for promotion and protection of the health and safety of the people of the City shall be controlling.*
- B. *If a term, part or provision, section, subdivision or paragraph of this Article shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to affect, impair or invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.*

## **§ 12-84 Fees.**

- A. *Fees for certificate of rental occupancy inspection or status report. The minimum fee for any inspection made under this section shall be \$60.00; there shall be no fee for any initial re-inspection should the property fail. Any subsequent re-inspections related to the initial failure shall be \$30.00 each visit. If a change in occupancy occurs within twelve months of the issuance of a rental occupancy permit, the subsequent re-inspection fee shall be \$30.00. This certificate is nontransferable. The fee for any status report under this section shall be \$10.00.*
- B. *Rental registration fee. There shall be no fee for properly completed rental registration forms submitted within 90 days of the enactment of this Chapter. The fee for applications received after 90 days, if any, shall be as set by the Common Council.*
- C. *No fee for new buildings. There shall be no fee charged for the initial inspection for a certificate of rental occupancy registration certificate for new rental dwellings at the completion of their construction which is covered by a building permit.*

## **§ 12-85 Penalties for offenses.**

*Any violation of any provision of this Article, or any provision of any rule or regulation adopted by the enforcement officer pursuant to authority granted by this chapter, shall be deemed an offense and any person found guilty thereof shall be liable to a fine which shall not be less than \$250 and not to exceed \$1,000, or to imprisonment not to exceed 15 days, or to both such fine and imprisonment, and each day's failure to comply with such provision, rule or regulation shall constitute a separate violation.*

## **§ 12-86 through § 12-95 Reserved.**

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## **ARTICLE IV: DESIGNATION OF UNFIT DWELLINGS**

### **§12-96 General provisions.**

*Any dwelling unit, dwelling, rooming house, or rooming unit, having any of the following defects may be designated by the fire chief as unfit for human habitation and may be so placarded:*

- (1) The structure lacks illumination, ventilation, sanitation, heat, or other facilities, adequate to protect the health and safety of the occupants or the public.*
- (2) The structure is damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested, in such a manner as to create a serious hazard to the health and safety of the occupants or the public.*
- (3) The structure, because of the location, general conditions, state of the premises, or number of occupants, is so unsanitary, unsafe, overcrowded, or otherwise detrimental to health and safety that it creates a serious hazard to the occupants or the public.*
- (4) The structure, because of the failure of the owner or occupant to comply with such notice or orders issued pursuant to this Code, is unfit for human habitation.*
- (5) The structure, whether or not a dwelling, dwelling unit, lodging house, or lodging unit in whole or in part has been made unfit for human habitation by catastrophe of fire, wind damage, lightning, impact from falling objects of any nature, impact of vehicles, or damage from any cause whatsoever.*

### **§12-97 Abandoned property.**

*All property abandoned for a period of one year with no upkeep by the owner may be removed by the city with the serving of notice to the owner. Serving of notice shall give the owner 90 days to make the necessary repairs to the property. The expense of the removal of property shall be paid by the owner or the expenses shall be charged against the property as a lien.*

### **§12-98 Notice of intent to vacate.**

*Whenever the fire chief determines that a dwelling, dwelling unit, rooming house, or rooming unit is unfit for human habitation, as provided in section 12-96 or 12-97, he shall include such finding within the notice of violation provided for in section 12-18. He shall also include a statement of his intent to vacate and placard the dwelling, dwelling unit, rooming house, or rooming unit if compliance with the provisions of the notice of violation has not been secured.*

### **§12-99 Order to vacate.**

*Whenever a notice of violation, as provided in section 12-98, has not been complied with, the fire chief may order the dwelling, dwelling unit, rooming house, or rooming unit to be vacated. A copy of such notice to vacate shall be served on the owner, agent, operator, and the occupant, as provided in section 12-18.*

### **§12-100 Vacation procedure.**

*Any dwelling, dwelling unit, rooming house, or rooming unit, designated as unfit for*

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*human habitation pursuant to section 12-96 or 12-97, and ordered vacated as provided in section 12-99 shall be vacated within such reasonable time as the fire chief may specify in the order. No such dwelling, dwelling unit, rooming house, or rooming unit shall again be used for human habitation, and the placard shall not be removed until written approval is secured from the fire chief.*

## **§12-101 Removal of placard.**

*No person shall deface or remove the placard from any dwelling, dwelling unit, rooming house, or rooming unit which has been designated as unfit for human habitation, except as provided in section 12-100.*

## **§12-102 Vacated dwelling made secure.**

*The owner, agent, or operator of any dwelling, dwelling unit, rooming house, or rooming unit which has been designated as unfit for human habitation and vacated, shall make such dwelling, dwelling unit, rooming house, or rooming unit, safe and secure in whatever manner the fire chief shall deem necessary. Any vacant building, open at the doors and windows, if unguarded, shall be deemed dangerous to human life and a nuisance within the meaning of this section.*

## **§12-103 Notice of intent to demolish.**

*Whenever the fire chief designates a dwelling or rooming house unfit for human habitation, as provided in this division, and determines that the cost necessary to correct the violation is not reasonably related to the value of the building, he shall include within the notice of violation, provided for in section 12-18, a statement of his intent to order the demolition of the structure. A copy of such notice shall be served on the owner, occupant, lessee, and mortgagee, as provided in section 12-18. The owner may demolish such structure as provided in section 12-20, or correct the violation regardless of cost provided that the requirements of the building code in effect at the time of attempted compliance are satisfied.*

## **§12-104 Order to demolish.**

*Whenever a notice of violation, as provided in section 12-103 has not been complied with, the fire chief may order the building demolished. Such order shall be served as provided in section 12-18, and demolition shall be completed within the time specified by the fire chief.*

## **§12-105 Fire chief to make repairs or demolish.**

*Whenever a notice or order to remove a violation, or to secure, vacate, or demolish a building has not been complied with, and when such failure to comply is deemed by the fire chief to constitute a nuisance, he may proceed to cause the structure to be demolished, repaired, altered, secured, vacated, or take such other action as is necessary to abate the nuisance. Whenever the fire chief determines that such nuisance exists, he shall record sufficient proof to support such determination. The owner, occupant, lessee, and mortgagee shall be notified of such finding pursuant to section 12-18. Abatement authorized by this section shall not commence until at least 10 days after service of such notice.*

## **§12-106 Recovery of expenses.**

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*The expenses incurred pursuant to section 12-105 shall be paid by the owner or occupant of the premises, or by the person who caused or maintained such nuisance or other matter. The fire chief shall file among his records an affidavit stating with fairness and accuracy the items of expense that each item was necessary, that the cost thereof does not exceed the current hourly rate of wages for the action, and the date of execution of actions authorized by section 12-105. The fire chief may institute a suit to recover such expenses against any person liable for such expenses or may cause such expenses to be charged against the property as a lien. A notice of such lien shall be mailed to or served upon the owner, operator, agent, and occupant claimed liable to pay such lien. A similar copy may be filed in the office of the city treasurer and the commissioner of assessments of the city and may be noted on the records of liens and assessments against the property. Except with respect to a lien imposed for expenses incurred in demolition, nothing in this section shall be construed as placing a lien upon the property which supersedes the lien of any mortgage on such property executed and recorded prior to the existence of a lien authorized in this section.*

**§ 12-107 through § 12-120 Reserved.**

**RESOLVED**, that this Resolution take effect June 1, 2018.

**ROLL CALL, AYES ALL. MOTION CARRIED.**

## ADJOURNMENT

*Motion to adjourn was made by Alderman Gonzalez, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried. Meeting adjourned at 7:00 p.m.*

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*Alexander Utecht, City Clerk*

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*Mayor William J. Aiello*

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*Paul Gonzalez, Council President*

*I hereby approve the foregoing minutes*

*Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_*

**STATE OF NEW YORK  
COUNTY OF CATTARAUGUS  
CITY OF OLEAN**

*I, Alexander Utecht, City Clerk of the City of Olean, do hereby certify that the foregoing minutes of the Common Council of the City of Olean is the true and correct copy of the whole thereof.*

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*Alexander Utecht, City Clerk*