

Registration and Licensing of Residential Rental Property in Jamestown, New York

OVERVIEW OF DRAFT ORDINANCE

JANUARY 2014

The Jamestown Renaissance Corporation, with assistance from an ad hoc committee of neighborhood leaders, has drafted the attached ordinance for consideration as a replacement for the City of Jamestown's existing Rental Registration law (Section 215-41.1 of the City Code). This work is based on:

- The City of Jamestown's adopted Neighborhood Revitalization Plan, which calls for a system of rental property inspections tied to a registration process;
- Research conducted by the Jamestown Renaissance Corporation regarding best practices for municipal monitoring of rental properties nationally and across New York State; and
- Priorities identified by the Jamestown Neighborhood Alliance, a city-wide consortium of neighborhood groups convened by the Jamestown Renaissance Corporation.

The following list of questions and answers addresses key points of the proposed ordinance's goals and substance.

1. What does the ordinance propose?

This ordinance proposes the implementation of a system that would require owners of rental properties in the City of Jamestown to (1) register their rental properties with the city annually, and (2) obtain a license for each rental unit certifying that the unit has passed an exterior and interior inspection for fire safety and code compliance.

As proposed, each license would be valid for a period of three years.

2. Why is this needed?

New York State law requires fire safety and property maintenance inspections for residential buildings with three or more units at least once every three years, a target the City of Jamestown is currently unable to meet due to resource limitations. At a minimum, the proposed ordinance would assist the City of Jamestown in complying with state law by creating a system of triennial inspections and a registration process that generates sufficient revenue to pay for needed administrative capacity.

Additionally, as the city's Neighborhood Revitalization Plan suggests, the effective and systematic monitoring of rental properties is crucial toward supporting a fair and level playing field in the local rental market and ensuring that basic standards of upkeep and maintenance are adhered to for the protection of public safety and the preservation of property values.

3. How does the proposed ordinance deviate from current practices?

Jamestown adopted a Rental Registration law in 2010, which instituted an annual registration process that collects contact information from the property owner and, if applicable, their appointed property manager. Although registration is required, non-compliance is currently not enforced. The proposed ordinance would make it unlawful to rent a unit that is not registered and that has not been inspected and licensed by the city. Financial penalties would be imposed on a property owner who actively rents an unlicensed unit and eviction orders would be pursued to ensure that unlicensed units are unoccupied.

The proposed ordinance would also require a change in how the City of Jamestown approaches code enforcement activities. Whereas a complaint-based and largely reactive system is currently the primary mode of code enforcement in Jamestown, the proposed ordinance would institute a more systematic and proactive approach that would rigorously monitor rental housing conditions.

4. How would the recommended program be paid for?

Costs associated with the proposed ordinance include distribution and processing of registration and license applications, the scheduling and performance of inspections, and all enforcement actions associated with the program.

An annual registration fee would be used to cover program expenses. The per-unit fee would be determined by total program costs and the number of rental units that are required to be registered and licensed (an estimated 4,500 units, not including exemptions). Program costs will vary depending on how the city decides to integrate the system within current or restructured operations. For comparative purposes, the annual fee in Erie, PA, which uses a model similar to the one proposed, is \$40 per unit with an escalating fee scale for late payments.

5. Would some residential rental units be exempt?

Yes. It is estimated that out of the 7,100 active rental units in the city (units either rented or actively for rent), approximately 2,500 units (or 35%) would be exempt from registration fees and inspection under the proposed program. These units must, however, be registered with the city and have exemption claims on file.

Exempt units (as defined in Sections 3 and 4 of the draft ordinance) include:

- Rental units in duplexes with an owner-occupant (437)
- Subsidized rental units subject to HUD inspections (1,410)
- Rental units occupied by close family of the owner, including parents and adult children (672, an estimated 10% of rented units)

*Unit counts are derived from the 2008-2012 American Community Survey (U.S. Census) and the Picture of Subsidized Households for 2009 (HUD)

6. How many inspections would have to be performed each year, and how would the process get started?

After excluding exempt properties, it is estimated that 4,500 rental units in Jamestown would be subject to the license and inspection requirement. Because licenses would need to be renewed every three years, it is recommended that the city adopt a pace of inspecting one-third of these units each year. That would entail 1,450 each year, or 120 inspections each month.

It is recommended that the program begin by issuing every registered unit a provisional license without inspection. In the first year of the program, the city's rental units would be divided into thirds and one-third of the provisional license holders would be required to apply for a full license with inspection. Those that pass inspection would be issued a three-year license. In year two, the next cohort of provisional license holders would be required to do the same, and so on.

7. This proposes exterior AND interior inspections. Would an interior inspection represent an unconstitutional invasion of privacy or an unlawful search?

Rental inspections have been challenged across the U.S. as infringements on a property owner's or tenant's right to privacy and their right to refuse warrantless searches. However, inspections of rental property have been widely recognized by the courts as a proper exercise of the police powers granted by the U.S. Constitution for the protection of the health, safety and welfare of the general public. This is why most states, such as New York, have long required fire safety and property maintenance inspections on multiple unit dwellings.

However, the rights of property owners to refuse entry without a warrant are also well-established. Inspection programs have been successfully challenged in court when they fail to articulate a clear process for seeking a search warrant when entry is refused.

The proposed ordinance addresses the need to have a clear process for seeking judicial warrants. Section 10 uses model language from Rochester, New York's City Charter. The City of Rochester has successfully fended-off legal challenges to its rental inspection program by having a proper process for obtaining warrants clearly established. With solid lines of communication between inspection staff and court officials, warrants can be obtained efficiently and with minimal delay to inspection procedures.

Registration and Licensing of Residential Rental Property

Proposal for Chapter 215 of the Jamestown City Code

Drafted by Peter Lombardi, Jamestown Renaissance Corporation

Chapter 215: Property Maintenance and Conservation

Article VI: Property Maintenance Requirements

Registration and Licensing of Residential Rental Property

1. Purpose: registering and licensing residential rental units
2. Definitions
3. Residential rental unit registration and license required
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1. PURPOSE: REGISTERING AND LICENSING RESIDENTIAL RENTAL UNITS.

(a) The purpose of this article and the resulting policy of the City of Jamestown (hereinafter "City") shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to residential rental units in the City and to encourage owners and occupants to maintain and improve the quality of rental housing within the community. As a means to these ends, this article provides for a system to register, inspect, and license residential rental units, and penalties for noncompliance.

(b) In considering the adoption of this article, the City makes the following findings:

1. There is a growing concern in the community with the general decline in the physical condition of residential rental units, which comprised 52% of the city's occupied dwellings in 2010;
2. Hazardous conditions at residential rental units threaten the safety of tenants, firefighters and other public safety personnel;
3. City records indicate a greater incidence of problems with the maintenance and upkeep of residential rental units as compared to those that are owner occupied. A 2010 survey of Jamestown residential structures, for example, found that 25% of single family dwellings were in excellent condition, while only 3% of duplexes were in excellent condition;
4. City records indicate there are a greater number of disturbances at residential rental units than other types of properties;

5. City records indicate that violations of the various codes are generally less severe at owner-occupied units as compared to residential rental units;
6. Studies of the Jamestown housing market show that properties in poor condition seriously erode the value of surrounding properties—as much as \$25,000 in areas of general stability—leading to depressed property assessments and higher tax rates;
7. Conscientious landlords are undermined by landlords that maintain substandard dwellings—driving down rents in a marketplace already characterized by oversupply and low rents;
8. State law requires inspection of multi-family dwellings every three years as a fire safety measure.

2. DEFINITIONS.

For the purposes of this article, the following definitions shall apply:

- (a) “Building or Code Official” means the official designated by the City to enforce building and/or similar laws and this article, or his/her duly authorized representative.
- (b) “Codes” means any state or local code or ordinance adopted, enacted or in effect in and for the City of Jamestown relating to or concerning the fitness for habitation, construction, maintenance, operation, use or appearance of any premises or dwelling unit.
- (c) “Conditional approval” means that a rental unit may be occupied on a conditional basis, provided that certain requirements established by the Code Official are addressed within a specified time frame.
- (d) “Dwelling unit/residence” means any building or portion thereof, which is designed for or used for residential purposes. The word "dwelling" shall not include hotels, motels, owner occupied housing, rooming houses or other structures used for transient residence, but shall include dwelling units under a written or unwritten lease or agreement.
- (e) “To let for occupancy or let” means to permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person who is not a legal or equitable owner of record thereof, pursuant to a written or unwritten agreement.
- (f) “Operator” means any person who has charge, care or control of a structure or premises, which are let or offered for occupancy.
- (g) “Owner” means the owner or owners of the freehold of the premises or lesser estate therein, a mortgage or vendee in possessions, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building or of premises, or their duly authorized agents.
- (h) “Person” means an individual, firm, corporation, association, partnership or public entity.

(i) “Public Officer” means an Inspector of the Department of Development or his/her authorized representatives.

(j) “Residential Rental License” means a document issued by the City of Jamestown Department of Development to the owner, operator, responsible agent or manager of a residential rental unit upon correction of all applicable code violations granting permission to operate a residential rental unit in the City of Jamestown. Such license is required for lawful rental and occupancy of residential rental units under this article, unless a Public Officer has not inspected the unit or violations of the applicable codes are being corrected and the unit operates under a Residential Rental Registration, or the residential rental unit is exempt from the license provisions of this article.

(k) “Residential property” means a property used or intended to be used for residential purposes.

(l) “Residential rental registration” means the annual registration of all individual residential rental units within the City of Jamestown, certified by a document issued to the applicant therefor.

(m) “Residential rental unit” means a rooming unit or a dwelling unit let for rent, or a residential unit occupied by persons other than the owner and his or her immediate family members, which includes the owner’s parents, parents-in-law, or adult children. A residential rental unit shall not include a hotel unit.

(n) “Responsible agent” means a person authorized by the owner to act in his behalf. All responsible agents must reside in Chautauqua County, New York.

(o) “Structure unfit for human occupancy” is whenever the Code Official applying the relevant code finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the relevant code or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(p) “Transient” means any individual residing or stopping in the City of Jamestown for less than thirty (30) days at any one time.

(q) “Unsafe structure” means one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible.

(r) “Unsafe equipment” means any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid container or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

3. RESIDENTIAL RENTAL UNIT REGISTRATION AND LICENSE REQUIRED. (This replaces Section 215-41.1 of the City Code.)

(a) It shall be unlawful for any person, firm or corporation to operate, let or rent to another for occupancy any residential rental unit in the City of Jamestown, unless a Residential Rental Registration Certificate and a Residential Rental License have been issued by the Department of Development.

(b) Registration Required for Residential Rental Units.

1. By (insert month and day) of each calendar year the owner, operator, responsible agent or manager of each residential rental unit shall apply for a Residential Rental Registration Certificate. The application shall be in a form determined by the Department of Development and shall be mailed by the City to the owner or operator of record not less than sixty (60) days prior the registration deadline.
2. A Residential Rental Registration Certificate shall be issued if the owner or operator of the residential rental unit provides the name of a responsible agent (if applicable), pays the registration fee (see part 8, "Fees"), and provides the company name and policy number for a homeowner's insurance policy with minimum coverage equal to the assessed value of the property plus the cost of demolition (see part 11, "Insurance"). The responsible agent is authorized by the owner to act in his or her behalf and must be a resident of Chautauqua County, New York.
3. This registration does not warrant the habitability, safety or condition of the residential rental unit in any way.

(c) License Required for Residential Rental Units.

1. The application for the Residential Rental License shall be in a form determined by the Department of Development and shall be provided to property owners, as appropriate, with the issuance of the Residential Rental Registration Certificate.
2. Each license shall have a three year term and shall indicate the individual rental unit that has been deemed fit for licensing. During the first calendar year of the license requirement, all property owners with registered units must apply for a provisional license, which shall be granted without an inspection. Thereafter, licenses shall only be granted upon successful passage of exterior and interior inspections by the Department of Development.
3. Each residential rental unit is required to have a minimum of one inspection every three years. Inspection schedules shall be determined by the Department of Development and shall begin in the first calendar year of the license requirement. During the first three years of the license requirement, the Department of Development shall schedule inspections with provisional license holders, with approximately one-third of registered rental properties being inspected each year. After successfully passing inspection, the provisional license holder shall receive a full license.

4. After the initial inspection, if the rental premises complies with the relevant code provisions and a Rental Registration Certificate has been issued (and the proper fee has been paid), the Code Official shall issue to the applicant a Residential Rental License.
5. If the rental premises fails to comply with the provisions of any applicable code, the Code Official shall notify the applicant in writing of the deficiencies within ten (10) days of the inspection. The owner/operator shall be given 30 days from the date of the notice to schedule a second inspection. If an inspection has not been scheduled within the given time frame, the license shall not be issued. However, in no event shall the inspection process exceed 120 days from the date of initial inspection.
6. If a Code Official is required to make additional inspections beyond those in subsection (c)(5) hereof, then those inspections shall be performed for sixty-five dollars (\$65.00) per inspection.
7. When a person obtains a license for a premises, which thereafter becomes noncompliant with the relevant codes, and fails to remedy the violation or violations within the time frames specified within the code or codes, then the license shall be revoked and occupancy in the unit shall not exceed 120 days from the date of revocation.
8. Duplexes occupied by the owner shall not be subject to the annual fee and will not be inspected providing that the building is registered annually and the owner provides proof of occupancy.
9. For buildings under construction or rehabilitation that have obtained a building permit to perform approved construction, the fee and inspection requirements will be suspended until the building permit is closed by the Department of Development or until the building permit expires. Units in the structure must be registered and unoccupied to meet this exemption.

(d) Display and Use.

1. Proof of the Residential Rental Registration and License shall be presented to a Code Official or a tenant on demand for inspection.

(e) Sale, Transfer or Construction of Residential Rental Units.

Residential Rental Registration Certificates and Residential Rental Licenses shall not be transferred. In the case of non-exempt residential rental units that are sold, transferred or constructed, the new owner shall seek a Rental Registration Certificate for each residential rental unit purchased or acquired. Failure of the new owner to seek a new Rental Registration Certificate for each unit within sixty (60) days of the date of sale or transfer of ownership shall result in proceedings per Section 99. Upon registration, the new owner may apply for a provisional license.

4. EXEMPTIONS.

The registration and licensing provisions of this article shall not apply to:

(a) All properties owned or managed by the Jamestown Housing Authority, which are currently inspected for conformance with United States Department of Housing and Urban Development requirements, shall be exempt. The Building Code Official shall be given a copy of the inspection results for each unit.

(b) Properties that have been inspected by Chautauqua Opportunities, Inc., (or other operators of Section 8 subsidized housing programs) and deemed eligible to house Section 8 voucher recipients shall be exempt. The Building Code Official shall be given a copy of the inspection results for each unit.

(c) Hospitals, nursing homes, group homes or other rental units used for habitation, where such facilities are subject to County, State, or Federal licensing and inspection. Inspections of these facilities must be at a level which meets or exceeds the code.

(d) Any boardinghouse or rooming house that has obtained a special use permit from the zoning board of appeals.

(e) Any unit where a parent, parent-in-law or adult child of the owner remains in occupancy. However, this exemption shall not apply when the dwelling becomes subject to code violations which remain uncorrected beyond the time frames specified in the code.

5. APPEALS FROM REVOCATION OF RESIDENTIAL RENTAL REGISTRATION OR RESIDENTIAL RENTAL LICENSE.

Property Condition Appeals: Any person aggrieved by any decision of a Building Code Official or Public Officer may submit an appeal to the Building Code Official for a review by the Property Rehabilitation and Conservation Board of Appeals , who shall issue a decision in writing setting forth specific facts and legal conclusions; and may appeal subsequently to the Chautauqua County Court.

6. RULES AND REGULATIONS.

(a) The Department of Development is authorized to promulgate rules and regulations for the enforcement and interpretation of this article.

(b) The rules and regulations shall be on file at the Department of Development and at the City Clerk's office, and shall be provided to each applicant for registration and license upon a request for an application.

7. SEVERABILITY.

The provisions of this article are declared to be severable; and if any section, sentence,

clause or phrase of this article shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this article but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part.

8. FEES.

On or before (fill in month and day): \$xx.xx

Between (fill in months and days): \$xx.xx

After (fill in month and day): \$xx.xx

Additional Inspection fee: \$xx.xx per inspection

Fees apply only to registration and follow-up inspections. There is no fee to receive a license upon passage of inspection.

All fees generated from registration and additional inspections shall be segregated from the City's general fund in a restricted account. That account shall be used to cover expenses associated with administering the registration, inspection and licensing activities set forth by this act.

9. OWNER'S RIGHTS.

The terms and provisions of this article are not intended to bar, preclude or affect the right of the owner to pursue judicial or extrajudicial relief against a tenant.

10. JUDICIAL WARRANTS FOR INSPECTION OF PREMISES

No local law or ordinance of the City shall be construed to require a person to consent to an inspection of a premises in order to determine compliance with applicable code provisions. However, this provision shall not be construed to remove the obligation of a person to apply for and secure a required license, permit, certificate or other City approval relating to the construction, alteration, maintenance, repair, operation, use, condition or occupancy of a premises. When applying for a license, permit, certificate or other City approval which calls for an inspection, a person shall have the right to decline to consent to the inspection, and the issuing authority may, without further notice to the applicant, apply for an inspection warrant to conduct the required inspection. However, if the premises is occupied, notice to the occupant or other person with apparent right of possession shall be required.

(a) Right of entry.

In the performance of official duties, subject to the further requirements established in this part and the obtaining of a warrant when the same is constitutionally required, designated City officers or employees may enter premises to enforce the property codes.

(b) Entry without notice or inspection warrant.

This part shall not be construed to require either an inspection warrant or prior notice to enter or inspect a premises under circumstances in which a warrant is not constitutionally required.

(c) Notice of intent to conduct inspection.

Before an application may be made for an initial inspection warrant, the designated City officer or employee must give prior notice of his or her intent to conduct an inspection to the occupant or other person with apparent right of possession or, in the case of an unoccupied premises, to the owner, the owner's agent or other person in apparent control of the premises. No notice is required to an applicant who has declined to consent to an inspection when applying for a license, permit, certificate or other City approval which calls for an inspection. No further notice is required before additional inspection warrants are sought to inspect a premises, including warrants to reinspect a premises to determine if cited violations have been corrected, or additional warrants necessitated by the expiration of a warrant before an inspection could be completed, in the same case or any cases relating to the same premises and arising concurrently.

(d) Contents of notice.

The notice of intent to conduct an inspection shall:

1. State the date and time at which the designated City officer or employee will be present to conduct an inspection;
2. Inform the person notified that he or she may reschedule the inspection to a reasonable date and time by contacting the designated City officer or employee before the stated date;
3. Advise that if the inspection is not allowed to be conducted, the designated City officer or employee may make an application to Jamestown City Court, Chautauqua County Court or New York State Supreme Court for an inspection warrant; and
4. Advise that a tenant may be protected against retaliation by a landlord for making a good faith complaint of code violations pursuant to § 223-b of the New York State Real Property Law.

(e) Service of notice when premises is occupied.

If the premises is occupied, the notice of intent to conduct an inspection must be either sent by first-class mail or personally delivered to the occupant or person with apparent right of possession. The notice shall be addressed to the occupants of record if their names are provided to the City by the owner in writing, otherwise notice shall be sufficient if addressed to the "occupant" of the particular unit.

(f) Service of notice when premises is unoccupied.

If the premises is unoccupied, the notice of intent to conduct an inspection must be mailed by first-class mail to the owner's tax mailing address for the premises or be personally served upon the owner.

(g) Inspection warrant application with prior notice.

A department head or a designated City officer or employee authorized by the department head may make an application to Jamestown City Court, Chautauqua County Court or New York State Supreme Court for an inspection warrant to conduct an inspection after notice of intent to conduct an inspection has been given, if the person notified does not allow, fails to schedule, or unduly delays the inspection.

(h) Inspection warrant application without prior notice.

A department head or a designated City officer or employee authorized by the department head may apply for an initial inspection warrant without giving the prior notice of intent to conduct an inspection if there is credible evidence to believe that a violation of a property code exists which immediately and significantly endangers the health or safety of any person.

(i) Authority to seek inspection warrant.

A department head or a designated City officer or employee authorized by the department head may make an application in accordance with this part to Jamestown City Court, Chautauqua County Court or New York State Supreme Court for an inspection warrant to conduct an inspection or to take any other authorized action to administer and enforce the property codes. The Corporation Counsel shall send written notice of at least five days to the owner and occupant, if any, of a premises before an application is made for an inspection warrant.

(j) Factors to be considered when applying for an inspection warrant.

A department head shall consider whether one or more of the following guidelines have been met in determining whether to authorize an application for issuance of an inspection warrant:

1. There is credible evidence to believe that the construction, alteration, maintenance, repair, operation, use, condition or occupancy of the subject premises is in violation of any applicable property code; or
2. Reasonable legislative or administrative standards for conducting an inspection in conjunction with the administration and enforcement of the property codes are satisfied with respect to the subject premises, and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises; or
3. An application for a certificate of occupancy, business permit, permit, license or other similar instrument which authorizes the construction, alteration, maintenance, repair, operation, use, condition or occupancy of the premises has been submitted, and the occupants and/or the owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises; or
4. A reinspection of the premises is necessary to determine whether previously cited violations of the property codes have been corrected, and the occupants and/or the

owner have not allowed, have failed to schedule, or have unduly delayed the inspection of the premises.

(k) Applications for inspection warrants.

The application for an inspection warrant must:

1. Be in writing, stating the name of the court to which it is addressed;
2. State the name, department, title and code enforcement authority of the department head or the designated City officer or employee authorized by the department head who is the applicant;
3. State the date of the making of the application;
4. Describe the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted in order to assure that any observations, findings and evidence obtained through execution of the inspection warrant shall be restricted to use in civil enforcement proceedings only;
5. Identify the premises to be entered and inspected in sufficient detail and particularity so that the designated City officer or employee executing the inspection warrant may readily ascertain the premises;
6. In cases where prior notice of intent to conduct an inspection is required, provide specific information showing how and when notice has been given, which most recent notice shall have been given within 90 days of the application for the inspection warrant, and how the inspection has not been allowed, has not been scheduled, or has been unduly delayed by the person notified;
7. State facts based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated, sufficient to demonstrate probable cause for the issuance of an inspection warrant;
8. Where there are specific safety concerns directly related to the premises to be inspected, its owners or occupants, detail such safety concerns in order to request that a police officer provide protection to the designated City officer or employee during the execution of the inspection warrant;
9. Be subscribed and sworn to by the applicant; and
10. Request that the court issue an inspection warrant directing an inspection of the subject premises for civil enforcement purposes only, which inspection may include the photographing, recording or nondestructive testing of property or physical conditions found thereon or therein, subject to such limitations and restrictions as may be provided by the court.

(l) Issuance of an inspection warrant.

1. Determination of application.
 - a) In determining an application for an inspection warrant, the court may examine, under oath, any person who it believes may possess pertinent information. Any such examination may be recorded or summarized on the record by the court.

- b) If the court is satisfied that there is probable cause to issue an inspection warrant, it may grant the application and issue an inspection warrant directing an inspection of the premises described in the application, subject to such limitations and restrictions as may be provided by the court. For inspections of dwellings, mere refusal by the owner and/or occupant to consent to an inspection shall not constitute the sole basis for the issuance of an inspection warrant, nor shall the condition of the area in which the dwelling is located constitute the sole basis for the issuance of an inspection warrant; provided, however, that this provision shall not prevent the issuance of an inspection warrant in circumstances where there are additional factor(s) to support the issuance, including but not limited to cases where the owner and/or occupant has declined to consent to a required inspection when applying for a license, permit, certificate or other City approval.
 - c) The inspection warrant may be requested in the form of an original and two copies.
2. The City shall prepare and attach to its application to the court a proposed inspection warrant for its consideration which may:
- a) Be in writing, stating the name of the issuing court and containing a signature line for the subscription of the issuing judge;
 - b) State the name, department, title and code enforcement authority of the designated City officer or employee authorized to conduct the requested inspection and to whom it is addressed;
 - c) Contain a place for the court to indicate the time and date the warrant was issued and the duration of the warrant;
 - d) State the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted in order to assure that any observations, findings and evidence obtained through execution of the inspection warrant shall be restricted to use in civil enforcement proceedings only;
 - e) Identify the premises to be entered and inspected in sufficient detail and particularity so that the designated City officer or employee executing the warrant may readily ascertain the premises to be inspected;
 - f) Where specific safety concerns directly related to the premises to be inspected, its owners or occupants are identified, provide that a police officer may provide protection to the designated City officer or employee during the execution of the inspection warrant;
 - g) For warrants for inspections of premises containing multiple dwelling units, contain a provision which authorizes a single entry into each unit, which entry need not occur at the same date and time for all units, but which entries must occur before the expiration of the warrant;
 - h) Direct an inspection of the subject premises for civil enforcement purposes only, which inspection may include the photographing, recording or

nondestructive testing of property or physical conditions found thereon or therein;

- i) Direct that the inspection warrant be executed between the hours of 7:00 a.m. and 8:00 p.m., or when the court has specially so determined based upon the use of the premises at other hours or other special circumstances of the premises, direct execution thereof at other times of the day or night, without the use of force;
- j) Direct that the inspection warrant authorizing entry to the premises shall be delivered to the occupant at the time of the inspection. The court may additionally authorize service of the inspection warrant by means of confirmation mail, in which case the inspection warrant shall require the owner and/or occupants to provide the designated City officer or employee with a reasonable date and time to conduct the inspection, which date and time must be within seven days of receipt of the warrant; and
- k) Contain a notice to the owner and occupants that it is unlawful to willfully deny or unduly delay entry or access to any premises to a designated City officer or employee with an inspection warrant authorizing inspection of said premises, to willfully deny or unduly delay or interfere with the inspection authorized by the warrant, or to willfully fail to timely set a reasonable date and time for an inspection as required by the court, and that such actions may result in punishment for contempt of court pursuant to Article 19 of the Judiciary Law, which punishment may consist of a fine or imprisonment, or both.

(m) Execution of an inspection warrant.

- 1. Except as provided in Subsection B of this section, in executing an inspection warrant, the designated City officer or employee authorized by the court to execute the warrant shall, before entry, make a reasonable effort to present his or her credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant and to deliver a copy of the warrant to the occupant or person in possession of the premises.
- 2. In executing an inspection warrant, the designated City officer or employee authorized to execute the warrant may promptly enter the designated premises if it is or is reasonably believed to be vacant and unsecured. Such designated City officer or employee need not provide notice of his or her authority and purpose as prescribed in Subsection A of this section.
- 3. When authorized in the inspection warrant, a police officer may provide protection to the designated City officer or employee during the execution of the inspection warrant. Absent such authorization, a police officer shall not accompany the designated City officer or employee during the inspection of the interior portions of a building not open to the public.
- 4. An inspection warrant issued shall be executed within:
 - a) The time specified in the warrant, not to exceed 45 days; or
 - b) If no time is specified therein, within 45 days from its date of issuance.

(n) Unlawful actions.

It shall be unlawful for any person to willfully deny or unduly delay entry or access to any premises to a designated City officer or employee with an inspection warrant authorizing inspection of said premises, to willfully deny or unduly delay or interfere with the inspection authorized by the warrant, or after receiving a copy of an inspection warrant requiring the scheduling of an inspection, to willfully fail to schedule a reasonable date and time for the inspection as set forth in the inspection warrant. Any person who violates this section shall be subject to an application to be found in contempt of court pursuant to Article 19 of the Judiciary Law, and punishment as provided for therein may include a fine or imprisonment, or both.

11. INSURANCE.

(a) **Minimum Coverage.** All owners shall be required to maintain homeowner's insurance equal to the value of the property insured, including the cost of demolition of the property. The value of coverage shall not be less than thirty-five thousand (\$35,000) dollars.

(b) **Property Owners to Provide City with Insurance Information.** Owners shall be required to place their insurance company name, policy number and policy expiration date on their rental registration form, or in the alternative, to provide the code enforcement officer with a copy of a certificate of insurance. A registration certificate shall not be issued unless insurance information is provided to the code enforcement office.

99. PENALTY.

Violation of this article is a summary offense, with particular penalties upon conviction as follows:

(a) **Revocation of or Failure to Renew a Residential Rental License.** A fine of not less than five hundred dollars (\$500.00) per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation.

A fine shall not be sought for any period during which the residential rental unit is vacant and the owner, operator, responsible agent or manager is taking appropriate action to correct the violations.

(b) **Failure to Register or Failure to Seek a Residential Rental License (for Newly Constructed, Newly Created or Substantially Rehabilitated Residential Rental Units).** The owner, responsible agent or manager shall be sent a Thirty (30) Day Notice of Violation, warning of the failure to comply with the terms of this article.

Failure to comply at the end of thirty (30) days will result in a fine of not less than five hundred dollars (\$500.00) per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation.

(c) Whoever violates any other provision of this article shall, upon a first offense conviction, be fined not more than one thousand dollars (\$1,000) nor less than one hundred dollars (\$100.00) or imprisoned not more than ninety (90) days, or both.

(d) After conviction for violation of this article, if such person continues violating the same provision then such person shall be liable for further prosecution, conviction, and punishment without the issuance of a new notice of violation or order.

(e) In addition to prosecution of persons violating this Code, the Public Officer, or the Jamestown City Attorney's Office or any duly authorized agent of the City may seek such civil or equitable remedies in any court of record of the State of New York, against any person or property, real or personal, to effect the provisions of this article.

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