Appendix 1 - Changes to Noise Ordinance Chapter 206
§ 206-1. Definitions.

§ 206-2. Unnecessary noise unlawful.

§ 206-3. Certain acts declared to be violations.

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§ 206-7. **Repealer. Enforcement & Administration**

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§ 206-9. **When effective.**

[HISTORY: Adopted by the Common Council of the City of Plattsburgh 9–8–88.1 Amendments noted where applicable.]

*Declaration of Policy*

It is hereby declared to be the public policy of the City to control unnecessary noise in order to preserve, protect and promote public health, safety and welfare and to foster the peace and quiet, convenience and comfort of its inhabitants. It is the public policy of the City that every person is entitled to life, health, and enjoyment of his or her property free from disturbances caused by unnecessary noise. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the City is a menace to public health, comfort, convenience, safety, welfare, quality of life and the prosperity of the people of the City.

1 Editor’s Note; This ordinance was originally adopted as Ch. 260 of this Code, but was redesignated by the editor as Ch. 206 to maintain the alphabetical sequence of the Table of Contents.

2 Editor’s Note: See Ch. 270, Zoning,
§ 206-1. Definitions.
As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

COMMERCIAL DISTRICT — Those areas designated B1, B-2, C and RC under the Zoning Ordinance of the City of Plattsburgh as of the date of the alleged violation.

COMMERCIAL STRUCTURE — Any structure located within a commercial district.

LESSEE — The person who has the right to occupy property owned by another for a period of at least thirty (30) consecutive days in consideration for the payment of rent, whether or not such right of occupancy is granted by written lease or instrument.

OWNER — The person who has record title to the property.

PERSON — Any individual, association, partnership or corporation.

RESIDENTIAL DISTRICT [*] — Those areas designated. R-1, R-2, and RH under Zoning Ordinance of the City of Plattsburgh as of the date of the alleged violation.

It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, or permit to be made or continued, on any premises he owns or leases any unnecessary noise which causes annoyance to any reasonable person of normal sensitivity.

§ 206-3. Certain acts declared to be violations.
The following acts are declared to be in violation of this chapter:

A. Operating, playing or permitting the operation or playing of any radio, television, phonograph, tape recorder, sound amplifier, musical instrument or similar device which produces, reproduces or amplifies sound:

[* Editor’s Note: see Ch. 270, Zoning]
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(1) In a residential district in such a manner that the sound is plainly audible at the boundary of the property on which the sound is produced.

(2) In such a manner as to create unnecessary noise that enters an apartment or dwelling unit that is separate and distinct from the apartment or dwelling unit from which the unnecessary noise originated.

(2) (3) In a commercial district in such a manner that the sound is plainly audible at a distance of fifty (50) feet from the boundary of the property on which the sound is produced.

(4) At any time within a commercial structure when the exterior doors, windows and entranceways of such commercial structures are left open.

(5) In a motor vehicle on a public right-of-way or public space in such a manner that sound is plainly audible at a distance of fifty (50) feet from the source of sound.

B. Yelling, shouting, hooting, whistling or singing on public streets within residential districts of the City of Plattsburgh so as to annoy or disturb the peace, quiet, comfort or repose of a reasonable person of normal sensitivity. [Amended: L.L. 2004-4]

C. The operation of a motor vehicle on public streets which is not equipped with a muffler or other device which effectively prevents the discharge of loud or explosive noises.

D. The operation of a motor vehicle on public streets in such a manner that the tires of the vehicle emit unnecessary noise.

E. The use of a loudspeaker, public-address system or similar amplification device without a permit, except when used in connection with a public emergency.

F. Annoyance, alarm or noise disturbance for more than 15 minutes at any time of the day or night caused by an animal's repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.

G. Any noise by means of any device or otherwise on any sidewalk, street or public place adjacent to any school, court, house of worship or public library while such facility is in use or adjacent to any hospital or nursing home at any time, so that such sound disrupts the normal activities conducted at such facilities or disturbs or annoys persons making use of such facilities.

H. The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 8:00 pm and 7:00 am the following day in such a manner as to cause unreasonable noise across a residential property boundary.

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§ 206-4. Exemptions.

This chapter shall not apply to noise or sounds caused by church bells, horns and sirens of trains and authorized emergency vehicles, and parades, concerts or other public gatherings for which a permit has been issued under this chapter or any other ordinance or law of the City of Plattsburgh, or which has been authorized to be held by resolution of the Common Council of the City of Plattsburgh. This chapter shall not apply to any noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way. This chapter shall not apply to domestic power tools and lawnmowers used between 6:00 am and 8:00 pm. Snow removal may be done at any time.

§206-5. Certain persons responsible for violations.

The following persons will be in violation of this chapter for causing or permitting impermissible noise:

A. The person causing the noise or operating the noise-producing device or equipment.

B. The owner or lessee of premises which is the source of the noise, provided that the owner, lessee or an employee or agent of an owner or lessee is present on that part of the premises where the noise is produced when the noise violation occurs.

C. (deleted by Ordinance 4-9-92), Move D to replace C.

D. It shall be a defense to liability hereunder, if a person who has not caused the noise reports the suspected noise violation to the Plattsburgh Police Department before the police arrive on the premises to investigate the alleged noise violation. Persons reporting suspected violations are required to give their name and address and the location of the suspected violation.
§ 206-6  NOISE

§206-6. Penalties for offenses.
(replaced by resolution 1-2-92)

Any person violating any provision of this chapter shall have committed an offense and shall be liable for a fine which shall not be less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) in amount, or imprisonment not to exceed fifteen (15) days for the first offense. Persons committing a subsequent offense within twelve (12) months of the date of a previous conviction shall have committed a Class A Misdemeanor and shall be liable for a fine not greater than one thousand dollars ($1,000) in amount, or imprisonment not to exceed one (1) year. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

7. Enforcement & Administration

The noise control requirements established by this section shall be enforced severely, separately and jointly by the Building Inspector or his designee, the Chief of Police or his designee, the Superintendent of Public Works or his designee and such other employees and/or officials authorized by the Mayor. Violation of any provision of this chapter shall be cause for an appearance ticket to be issued.

206-7(4)
206-8(4)
206-9(4)

(4) Editor’s Note: Sections 206-7, 206-8, and 206-9 addressed general construction of ordinances and this Code in general and as such were omitted at the 5-10-96 text update.
Appendix 2 - Definition of Family
DEFINITION OF A FUNCTIONAL FAMILY

LEGISLATIVE DECLARATION:

The Common Council of the City of Plattsburgh finds that Zoning Regulations applicable to residential districts, especially single family districts (also known as R-1 districts in the City), rely on the definition of “Family” for their effectiveness. The Council has determined that, in order to increase the effectiveness of the definition and thereby better preserve the character of the City’s residential neighborhoods, a rebuttable presumption that four or more unrelated individuals do not constitute the functional equivalent of a family shall be included in the definition; and furthermore, that in order to clarify the definition, broad criteria to rebut the presumption and establish that a group is the functional equivalent of a traditional family be detailed within the definition. The Council concludes that the clarification of the old definition as contained in the new definition, as well as the inclusion of the rebuttable presumption, are reasonable and necessary in order to protect the health and safety of the people of the City and to promote the general welfare.

Chapter 270-4 Terms Defined of the City Code of Plattsburgh, NY

Family

a) Any number of individuals related by blood, marriage, or adoption and up to three (3) unrelated roomers living together in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common; or

b) One (1) to four (4) individuals unrelated by blood, marriage or adoption occupying a premises and living together in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common; or

c) Any number of individuals unrelated by blood, marriage or adoption, living together as a functional family (see definition of functional family) in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common.

d) Four or more occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

e) It shall be presumptive evidence that four (4) or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption—exclusive of minor dependent children—do not constitute the functional equivalent of a traditional family.

e) In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

Functional Family
A group of individuals living together within a single dwelling unit in a family-like living arrangement, that: (a) in size, appearance and structure resembles a family of related individuals; or (b) is headed by a person or persons responsible for providing care for a reasonable number of individuals such as a home care facility for senior citizens.
A group of five (5) or more unrelated individuals, exclusive of minor dependent children, living together in the same dwelling unit shall be presumed not to be living together as a functional family that in size, appearance and structure resembles a family of related individuals. That presumption may be rebutted by sufficient evidence showing that their living arrangement possesses substantially each of the following four characteristics.

1) **The occupants share the entire dwelling unit.** A unit in which occupants act as separate roomers shall not be deemed to be occupied by a functional family.
   The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.

2) **There is joint ownership of the dwelling unit, or a lease whereby the occupants, except dependent occupants, are jointly and severally liable to pay the entire rent for the premises.** In situations where the occupants have separate leases or rental agreements they shall be deemed not to be living together as a single housekeeping unit.
   The group is one that in theory, size, appearance, structure and function resembles a traditional family unit.

3) **The presence of one or more occupants who is dependent upon another occupant for their financial support.**
   The group shares expenses for food, rent, or ownership costs, utilities, and other household expenses.

4) **There is evidence of stability of the housekeeping unit, and that it is not transitory in character.** The following criteria shall be considered in determining stability. The group is permanent and stable. Evidence of such permanency and stability must show that the living arrangement possesses substantially each of the following characteristics:

   a) **Evidence that the occupants intend to reside together on a permanent rather than on a transient basis such as a showing that the household has been living together for 12 months or more.**—The household had been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.

   b) **The sharing of household expenses by the occupants, such as utility bills, insurance, real property taxes, cleaning supplies, maintenance costs, food, and household supplies.**

   c) **Joint or common ownership of household furnishings located in the common areas of the dwelling unit.**
   b) There is common ownership of furniture and appliance among the members of the household.

   d) **The presence of dependent persons regularly residing in the household.**
   c) The presence of minor dependent children regularly residing in the household who are enrolled in local schools.

   e) **The fact that different members of the household use the household address for purposes of voter registration, drivers license, motor vehicle registration, and filing of taxes.**
   d) Members of the household have the same address for purposes of voter’s registration, driver’s license, motor vehicle registration, filing of taxes, or other residences.

   f) **Any other factors that show that the group is of a permanent rather than a transient
e) Members of the household are employed in the local area; and

f) The group is not transient or temporary in nature.

g) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

5) The dwelling does not include bedrooms that were rooms originally included according to the construction plans or otherwise legally permitted for other uses such as dining rooms, living rooms, entrance foyers, basements, and attics.
Appendix 3 - Housing, Property Maintenance and Nuisance Ordinance
Proposed Civil Change to City Ordinances
Preamble

General Standards

I. Inspections of Dwellings
II. Enforcement
III. Public Nuisance
IV. Civil Remedies for Property and Building Nuisances
V. Civil Remedies
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VIII. Temporary Restraining Order – Defendant’s Remedies
IX. Responsibilities of Owners
X. Rights & Responsibilities of Occupants
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XII. Vacant Property
XIII. Garbage and Sanitation
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XXVII. Judgment Awarding Permanent Injunction
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XVII. Administrative Remedies for Property and Building Nuisances

Appendix
Definitions
Preamble

Frequent violations committed by individuals and corporations and that occur on private property in the City of Plattsburgh: impact the public’s safety and health; create a drain on limited City resources; and, produce an impediment to the enjoyment of private property by others. These violations, when considered over a reasonable interval, render the private property on which the frequent violations occur, a nuisance to the people of Plattsburgh. The acts may be within or combinations of violations of Penal Law, the Alcohol Beverage Control Law, Vehicle and Traffic Law, Tax Law, Social Services Law, Agriculture and Market Laws, the United States Code and or the Ordinances and Codes of the City of Plattsburgh. The first purpose of this chapter is to preserve the city’s housing and to protect the health, safety and welfare of the general public and the quality of life of the community.

In addition, it is useful to encode parts of the Property Maintenance Code of New York State. The consistency between the codes clarifies the enforcement of building code. The second purpose of this chapter is to establish rules, regulations and enforcement procedures for the maintenance and upkeep of housing and property in the City of Plattsburgh such that the code for the City is consistent with that promulgated by the State of New York.

General Standards

Word usage. In the construction of this chapter, the present tense shall include the future; the singular number shall include the plural, and the plural, the singular. The word “shall” is always used in it, mandatory and not its permissive sense, and “may” is always used in its permissive sense and not it mandatory sense. The words “zone” and ‘district” are synonymous, and the words “building” and “structure” are synonymous. The word “used” shall include the words “arranged, designed or intended to be used.”

Whenever the words “dwelling” and “dwelling unit,” “rooming house,” “rooming unit,” “premises” and “structure” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.”

I. Inspection of Dwellings.

A. The Enforcement Official is authorized and directed to enter and inspect at all reasonable times, or at such times as may be necessary in an emergency, all dwellings, dwelling units, rooming houses or units, and premises located within the City of Plattsburgh both to determine whether such dwellings are in compliance with this chapter and to safeguard the health and safety of the occupants and the general public in accordance with Section I.B.

B. The Enforcement Official shall enter and inspect a dwelling, dwelling units or premises, either upon request and with the permission and at the convenience of the lawful owner, or upon the compliant and/or invitation of an occupant, or by an order of a judge of competent jurisdiction directing that the Building Inspector’s Office shall have access for the purpose of making the inspection. The Enforcement Official shall at the time of their inspection, leave a copy of the inspection worksheet summary sheet with the resident of each specific unit so inspected. Where an immediate threat to health or safety is found in a building that affects more than one unit, a copy of the inspection worksheet summary sheet shall be forwarded to the residents of the units affected.
C. The Enforcement Official is authorized to make application to the Plattsburgh City Court for the issuance of a search warrant in order to conduct an inspection of any premises covered by this chapter where the owner, tenant or occupant refuses or fails to allow an inspection of his rental premises and where there is reasonable cause to believe that a violation of this chapter has occurred. The application for a search warrant shall in all its respects comply with the applicable laws of the State of New York.

II. Enforcement.

A. Whenever the Building Inspector or his designee, the Superintendent Public Works or his designee, the Chief of Police or his designee, the Fire Chief or his designee, or the City Engineer or his designee determine that there are reasonable grounds to believe there has been a violation of any provision of this chapter or any rule or regulation adopted thereto, he shall give notice of the alleged violation to the person or persons responsible according to the procedures set forth in this chapter. The notices shall:

(1) Be put in the form of a written Violation Notice.

(2) Include a specific statement of the reasons why it is being issued with reference to the sections of this chapter deemed to be violated.

(3) Except where major repair work is required, establish the following time limits for remedial action:
   (a) In cases of emergency, the responsible party shall have 24 hours to commence work to correct, alleviate or eliminate the emergency condition, and 72 hours to reasonable complete such work.
   (b) In the case of high grass complaints pursuant to VIII of this chapter, the responsible party shall have 48 hours to correct the violation.
   (c) In the case of violations of this chapter for which specific compliance time limitations are cited, those limitations shall apply.
   (d) All other violations shall be repaired within five (5) days of the responsible party receiving notice of such violations.
   (e) The Building Inspector may grant an extension to the violator one extension of 48 hours upon receipt of such a request in writing. It is the responsibility of the violator to demonstrate good cause for any extension.

(4) Such notice shall be served personally, or by affixing such notice in a conspicuous place on the premises and mailing a copy by first class mail to the owner, lessee or tenant, or by mailing a copy of such notice by certified mail, return receipt requested, to the owner, lessee or tenant.

(5) Have copy retained on file in the Building Inspector’s Office for inspection by the owner or his agent, or the occupant, or the general public.

(6) Notices may also contain an outline of remedial action which if taken will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.

B. Should any violations for which a person is cited fail to be corrected within the required time period, the Enforcement Official shall be authorized to issue an appearance ticket for such violation, returnable in City Court.
III. Public Nuisance.

For purposes of Section III, a public nuisance shall be deemed to exist whenever through violation and conviction of any of the following provisions resulting from separate incidents at a building, erection or place, or immediately adjacent to the building, erection or place as a result of the operations of the business, 12 or more points are accumulated within a period of six months or 18 or more points within a period of 12 months, in accordance with the following point value assigned to any single violation.

1) City Codes
   a) Section 206 - Noise Code – Six (6) Points
   b) Disorderly Conduct – Six (6) Points
   c) Allowing individuals on premises in excess of occupancy limits – Four (4) Points
   d) Suffering or permitting the premises to become disorderly, including suffering or permitting fighting or lewdness – Six (6) Points
   e) Operating a business at the premises in a manner which causes it to be a source of disruption or the neighborhood and/or focal point of police attention – Three (3) Points
   f) General disturbances at a particular location – Three (3) Points
   g) Subpart LXXIII of the Code of Ordinances of the City of Plattsburgh User Fee System for garbage – Four (4) Points
   h) Chapter 4 – Issues Related to Dogs – Three (3) Points
   i) Chapter 8 – Storage of gunpowder, explosives, flammable volatiles, etc. – Four (4) Points
   j) Chapter 9 – Littering – Three (3) Points
   k) Chapter 11 – Property Maintenance – Four (4) Points
   l) Chapter 270 - Any commercial violations of the Zoning Code – Four (4) Points
   m) Chapter 270 - Operating a premises without the requisite certificate -

2) Penal Law
   a) Article 158 - Welfare Fraud – Six (6) Points
   b) Sections 165.15(4), (6), (7), and (8), 165.40, 165.45, 165.50, 165.52, 165.54, 165.71, 165.72 and 165.73 - Criminal Possession of Stolen Property – Six (6) Points
   c) Sections 170.65 and 170.70 - Forgery of Illegal Possession of a Vehicle Identification Number – Six (6) Points
   d) Section 175.10 - Falsifying Business Records – six (6) Points
   e) Article 178 - Criminal Diversion of Prescription Medications and Prescriptions – Six (6) Points
   f) Article 220 - Controlled Substance Offenses - Six (6) Points
   g) Article 221 - Offenses Involving Marijuana – Six (6) Points
   h) Article 225 - Gambling Offenses - Six (6) Points
   i) Article 230 - Prostitution Offenses – Six (6) Points
   j) Sections 240.36 and 37 of the Penal Law - Loitering in the First Degree and Loitering for the Purpose of Engaging in a Prostitution Offense – Six (6) Points
   k) Sections 260.20 and 260.21 – Unlawfully Dealing with a Child– Six (6) Points
   l) Article 263 - Sexual Performance by a Child– Six (6) Points
   m) Article 265 - Firearms and other Dangerous Weapons– Six (6) Points

3) Alcohol and Beverage Control Law
   a) Section 65 or 82 - Six (6) Points

4) Vehicle and Traffic Law
   a) Section 415 -a – Vehicle Dismantlers – Four (4) Points

5) Social Services Law
   a) Section 147 - Food Stamp Program Fund – Six (6) Points

6) Public Health Law
a) Section 3383 - Imitation Controlled Substances – Six (6) Points
7) The Agriculture and Market Laws – Six (6) Points
8) Tax Law
   a) Article 18 or 20 - Possession, use, sale or offer for sale of any alcoholic beverage in violation of Article 18 or of cigarette or tobacco products in violation of Article 20 – Six (6) Points
9) United states Code –
   a) Section 2024 of Title 7 - Illegal Use of Food Stamps – Six (6) Points
   b) Section 1325a of Title 9 - Unlawful Employment of Aliens – Six (6) Points

Violation: Conduct, or evidence of conduct, prohibited under the Property and Building Nuisance Law. A violation does not require criminal prosecution and conviction by only a preponderance of evidence that prohibited conduct is occurring or has occurred. Evidence of prohibited conduct may include, but is not limited to; police reports, investigative reports, execution of search warrants, results of police surveillance, arrest and/or conviction of local and state and federal laws, activities associated with trafficking of controlled substances, finding of weapons and/or controlled substances on or near the property, increase volume of traffic associated with the property.

4. Evidence and Presumptions

a. Evidence. In any action under this subdivision, evidence of the common fame and general reputation of the building, structure or place, of the inhabitants or occupants thereof, or of those resorting thereto, shall be competent evidence to prove the existence of a property or building nuisance.

b. Scienter. If evidence of the general reputation of the building, structure or place, or of the inhabitants or occupants thereof, is sufficient to establish the existence of the nuisance, it shall be prima facie evidence of knowledge thereof and acquiescence and participation therein & responsibility for the nuisance, on the part of the owners, lessors, lessees, and all those in possession of or having charge of, as agent or otherwise or having any interest in any form in the property, real or personal, used in conducting or maintaining the property or building nuisance.

c. Presumptions for the purposes of this Section.

1. Any building, building accessory, business office, lot, or yard, wherein within the period of one year prior to the commencement of an action under this chapter (local law), there have occurred two or more convictions, as defined in Section III, on part of the lessees, owners, operators, or occupants, of the provisions of the Housing, Property Maintenance and Building Nuisance Reform Law as defined in Section III or this article, shall be prima facie evidence that a public nuisance exists at said location.

2. Any building, building accessory, business office, lot, or yard wherein within the period of one year prior to the commencement of an action under this chapter (local law), there have occurred four or more violations, as defined in Section III, on part of the lessees, owners, operators, or occupants, of the provisions of the Housing, Property Maintenance and Building Nuisance Reform Law as defined in Section III or this article, shall be prima fade evidence that a public nuisance exists at said location.
3. Any building, building accessory, business office, lot, or yard, wherein within the period of one year prior to the commencement of an action under this chapter, there has been presented a preponderance of evidence of repeated criminal activity which has an adverse impact, as defined in Section III of this article, on such property or neighborhood, shall be prima facie evidence that a public nuisance exist at said location.

IV. Civil Remedies for Property and Building Nuisances

Applicability. This article shall be applicable to the public nuisances defined in Section I of this chapter.

V. Civil Remedies.

The Corporation Counsel may bring and maintain a civil proceeding in the name of, the city for the following types of relief:

A. Permanent injunction

B. Temporary closing order

C. Temporary restraining order

D. Temporary injunction

E. Civil penalties
   1. The summons. The Corporate Counsel shall name as defendants, the building, structure or place wherein the public nuisance is being conducted, maintained or permitted, by describing it by tax map number and/or street address and at least one of the owners of some part of the interest in the property.

   2. The complaint. The corporation counsel shall bring & maintain a civil proceeding in the name of the City of Plattsburgh to permanently enjoin the public nuisance & the persons, conducting, maintaining or permitting the public nuisance, as defined in Sections I & III of this chapter, from further conducting, maintaining, or permitting the public nuisance in the manner provided in Section II of this chapter. The owner, operator, and/or lessee of a building, structure or place wherein the public nuisance is being conducted, maintained or permitted may be made defendants in the action.

   3. The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this chapter.

   4. The complaint or affidavit shall contain a description of the attempts the applicant to notify and locate the owner of the property and/or the owner's agent.

   5. The complaint of affidavit shall describe the adverse impact associated with the property on the surrounding neighborhood.

F. In rem jurisdiction over building, structure, or place. In rem jurisdiction shall be complete over the building, structure, or place wherein the public nuisance is being conducted, maintained, or permitted by affixing the summons to the door of the building, structure, or place and by mailing the summons by certified or registered mail, return receipt requested, to one of the owners who possesses some part of or an interest in the property. Proof of service shall be filed within two
days thereafter with the Clerk of the Court designated in the summons. Service shall be complete upon such filing.

G. Service of summons on other defendants. Defendant(s), other than the building, structure or place wherein the public nuisance is being conducted, maintained or permitted, shall be served with the summons as provided in the Civil Practice Law and Rules.

H. Penalty. If, upon the trial of an action under this chapter, or upon a motion for summary judgment in an action under this chapter, a finding is made that the defendant has conducted, maintained or permitted a public nuisance defined in this chapter, a penalty may be awarded in an amount not to exceed $1,000 for each day it is found that the defendant conducted, maintained or permitted the public nuisance after notice to abate has been given by the city plus the total of all administrative costs for the prosecution. Upon recover, such penalty shall be paid into the general fund of the city. Until such time as the fine is paid, a notice, clearly visible from the street, shall be placed on the residence noting that it is a nuisance property.

I. Enforcement. A judgment pursuant to this chapter shall be enforced by the City of Plattsburgh Police Department and the office of Corporation Counsel.

XIV. VI. Judgment Awarding Permanent Injunction.
A. A judgment awarding a permanent injunction, pursuant to this chapter, may direct the Plattsburgh Police Department to seize and remove from the building, structure or place, all material, equipment and instrumentalities used in the creation and maintenance of the public nuisance and shall direct the sale by the Plattsburgh Police Department of such property in the manner provided for the sale of personal property under execution pursuant to the provisions of the Civil Practice Law and Rules. The net proceeds of any such sale, after deduction of the lawful expenses involved, shall be paid into the general fund of the city.

B. A judgment awarding a permanent injunction pursuant to this chapter may authorize agents of the city to forthwith remove and correct construction and structural alterations in violation of the city housing code. Any and all costs associated with these repairs or alterations shall become a lien against said property and shall have priority before any mortgage or other lien that exists prior to such filing except tax assessment liens and any nuisance abatement lien.

C. A judgment awarding a permanent injunction, pursuant to this chapter, may direct the closing of the building, structure or place by the Plattsburgh Police Department, to the extent necessary to abate the nuisance, and shall direct the Plattsburgh City Police Department to post a copy of the judgment and a printed notice of such closing. Mutilation or removal of such a posted judgment or notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable on conviction by a fine of not more than $500 or by imprisonment not exceeding 15 days, or by both, provided such judgment contains therein a notice of such penalty.

D. The closing directed by the judgment shall be for such period as the court may direct, but in no event shall the closing by for a period of more than one year from the posting of the judgment provided for in this subdivision.

E. A judgment rendered awarding a permanent injunction pursuant to this chapter shall be and become a lien upon the building, structure or place named in the complaint in such action, such lien to date from the time of filing a notice of liens pending in the office of the Clerk of the county wherein the building, structure or place is located. Every such nuisance abatement lien
shall have priority before any mortgage or other lien that exists prior to such filing except tax and assessment liens.

VII. Preliminary Injunction.
A. Generally.
(1) Pending an action for a permanent injunction as provided for in this article, the Court may grant a preliminary injunction enjoining a public nuisance within the scope of this chapter and the person or persons conducting, maintaining or permitting the public nuisance from further conducting, maintaining or permitting the public nuisance. A temporary closing order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted and that the public health safety or welfare immediately requires the granting of a temporary closing order. A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted.

B. Temporary closing order.
(1) If, on a motion for a preliminary injunction pursuant to Section III of this chapter the Corporation Counsel shall show by clear and convincing evidence that a nuisance within the scope of this chapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary closing order, a temporary order closing such part of the building, structure or place wherein the nuisance is being conducted, maintained or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court.

(2) Service of temporary closing order. Unless the court orders otherwise, a temporary closing order together with the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served, in the same manner as a summons as provided in the Civil Practice Law and Rules.

(3) A temporary restraining order may be granted pending a hearing for preliminary injunction where it appears by clear and convincing evidence that a public nuisance within the scope of this chapter is being conducted, maintained, or permitted and that the public health, safety, or welfare immediately requires the granting of a temporary restraining order. This order shall restrain the defendants and all persons from removing or transferring off the property or in any manner interfering with the fixtures and movable property used in conduction, maintaining or permitting the public nuisance and from further conducting, maintaining or permitting the public nuisance. A temporary restraining order may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court.

C. Closing of premises pursuant to temporary closing orders and temporary restraining orders. The officers serving a temporary restraining order shall. Upon service of the order, command all persons present in the building, structure or place to vacate the premises forthwith. Upon the building, structure or place being vacated, the premises shall be securely locked and all keys delivered to the officers serving the order who thereafter shall deliver the keys to the fee owner, lessor or lessee of the building, structure or place involved.
XVI. Temporary Restraining Order - Defendant’s Remedies.

A. Temporary restraining order to be vacated; inspection provision.
   (1) A temporary restraining order shall be vacated, upon notice to the Corporation Counsel, if the defendant shows by affidavit and such other proof as may be submitted that the public nuisance within the scope of this chapter has been abated. An order vacating a temporary closing order, or a temporary restraining order shall include a provision authorizing agencies of the city to inspect the building, structure or place, which is the subject of an action pursuant to this chapter, periodically without notice, during the pendency of the action, for the purpose of ascertaining whether or not the public nuisance has been resumed.

   (2) A temporary restraining order may be vacated by the court, upon notice to the Corporation Counsel, when the defendant gives and undertaking and the court is satisfied that the public health, safety or welfare will be protected adequately during the pendency of the action. The defendant shall pay to the city, in the event a judgment of permanent injunction is obtained, its actual costs, expenses and disbursements in investigating, bringing and maintaining the action.

IX. Responsibilities of Owners.

A. The owner of a rental unit shall be responsible to keep every part of a dwelling and the lot on which it is situated in good repair, clean and free from vermin, rodents, filth, garbage and other materials dangerous to health.

B. The owner of a rental unit shall be responsible to maintain all required and supplied facilities and services and all other pieces of equipment in good repair, free from defects, in a clean and sanitary fashion, in good working condition, and operable at all times except in emergencies and for repairs.

C. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter or supplied to be removed from or shut off from or discontinued from any occupied rental unit except for temporary interruption as may be necessary while actual repairs are in progress, or during emergencies.

D. No owner or operator shall cause to be rented any dwelling unit for which the occupant pays for all or part of his utilities unless said utility service serves only the occupant’s unit and is separately metered.

E. All rental housing property owners or agents thereof not residing in said building shall have on file with the Building Inspector’s Office the name of a person residing in Clinton County who can be contacted throughout the calendar year when the owner is not available in cases of emergency.

X. Rights & Responsibilities of Occupants

A. Maintenance of property in sanitary condition.

   (1) Every occupant of a dwelling or a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit or premises which he occupies and controls.

   (2) None of the responsibilities of occupants specified in this section shall relieve the owner of his responsibility to maintain those parts of a rental unit which are part of the permanent or
semi permanent construction of the unit or dwelling in whole or in part in a clean, orderly and sanitary condition.

(3) Willful failure to comply with such restitution order shall result in a term of imprisonment not to exceed 15 days, or community service not to exceed 100 hours, or both such imprisonment and community service.

(4) Nothing in this section shall be interpreted so as to diminish any other lawful remedy to recover for damages.

B. Every occupant of a dwelling unit shall keep all plumbing, cooking, electric, and all other fixtures and facilities required by this chapter in a clean and sanitary fashion and shall also be responsible for the exercise of reasonable care in the proper use and operation.

C. Every occupant of a dwelling unit shall be responsible to limit the occupancy of that part of the premises which he occupies or controls to the maximum permitted by this chapter and other chapters.

D. Every occupant shall keep exits from his dwelling unit clear and unencumbered.

E. Reprisal against occupants.

(1) No owner, occupant, contractee, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part thereof shall threaten to or take reprisal against any occupant who has not committed a breach of the lease of contract of rental, for reporting in good faith, of the existence of any violation of the provisions of this chapter or any other applicable laws, statutes, chapters or regulations, or for, in good faith, availing himself of any legal remedy to secure or enforce rights under his lease or agreement, or provided by law.

(2) No owner, occupant, contractee, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part thereof shall threaten to or take reprisal against any occupant who lives in a dwelling or dwelling unit where the Enforcement Official has initiated action by giving notice to the owner or persons responsible for the dwelling because the bureau believes there has been a violation of any provision of this chapter.

(3) No owner, occupant, contractee, mortgagee, designated manager, or any other person, firm or corporation directly or indirectly in control of a building or a part thereof shall threaten to or take reprisal against any occupant who has exercised any of his rights as described in this chapter.

(4) Receipt of notice to quit the dwelling or an unreasonable rent increase without adequate cause within 120 days after the above occupant or someone in his behalf or for his benefit (including the Enforcement Official) has made a report or if the occupant himself has availed himself of remedies against the owner provided by law shall create a rebuttal presumption that the notice to the occupant (is a reprisal against the occupant) for making a report or complaint or for having availed himself of the remedies against the owner as provided by law.
(5) The defense of retaliatory eviction or reprisal may be raised by the occupant in any eviction action, summary proceeding or other action relating to the right of the occupant to remain in possession of the premises.

VIII. XI. Minimum Exterior and Interior Requirements.

A. All exterior surfaces, including chimneys and accessory buildings, shall be repaired, painted, coated, treated, sealed, pointed, sandblasted, or chemically cleaned or sealed when the surfaces require the above-stated maintenance to prevent or retard deterioration or weathering, to avoid health or safety hazards, or to promote an attractive appearance and prevent a substantial depreciation to the integrity of the neighborhood.

B. Residential, commercial and industrial buildings and properties, whether vacant or occupied, and accessory structures, shall be maintained in conformity with the provisions of this chapter to promote an attractive appearance, prevent a substantial depreciation to the integrity of the neighborhood, or prevent health or safety hazards. In order to satisfy the requirements of this section, a person must comply with the following:

(1) Fences and other minor construction shall be maintained in a safe and substantial and attractive condition.

(2) Steps, walks, driveways, parking spaces, and similar paved areas shall be maintained free of holes or other hazards and be maintained to afford safe passage under normal use.

(3) Yards, courts, vacant lots and grass medians shall be kept trimmed and mowed, with the height of grass and weeds being no more than 12 inches, and clean and free of physical hazards, rodent harborage, and infestation. They shall be maintained in a manner that will prevent dust and other particles from being blown about the neighborhood such as by the planting of grass.

(4) Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health shall be eliminated. Any trees or portions located on private property and constituting a hazard to persons or property shall be trimmed or removed.

(5) Any plant growth with capability of encroaching on the public way must be planted at least five (5) feet inside the property line. All hedges must not impede the public way.

(6) A junk vehicle may not be parked, stored or left in the open unless it is necessary for the operation of a business lawfully situated on private property as permitted by applicable zoning regulations. Any other junk vehicle or vehicles must be relocated to a completely enclosed garage or removed form the property.

(7) No unsightly furniture shall be placed or stored on an outside porch, yard and/or lawn of a property for any longer than is necessary to allow for its collection by a refuse handler. Furniture is unsightly when it is shredded, wet, worn, discarded, torn, has stuffing visibly protruding from beneath the exterior, or is attracting or housing vermin. Furniture designed for indoor use (not impervious to the elements) must not be left outside.
C. Maintenance of property.

(1) Whenever an owner of a property fails to comply with a notice by Building Inspector’s Office to cut and remove grass, heavy undergrowth or accumulations of plant growth on the property which constitutes physical hazards, rodent harborage or places of infestation, or garbage or trash this chapter, the Enforcement Official may direct that the grass, heavy undergrowth or accumulations of plant growth, or trash and garbage he cut and removed from the property by the Department of Public Works.

(2) A bill for the expenses incurred shall be presented to the owner of the property, personally or by mailing it to him at his last-known address. If the owner fails to pay within 10 days, the Building Inspector shall certify to the City Treasurer the expenses incurred and the amount of the expenses shall become a lien. The lien upon the property shall be included in the next tax bill rendered to the owner, unless paid before, and shall be collected in the same manner as other taxes against the property. The bill presented to the owner shall include all city expenses, material and contractor costs.

(3) In addition to the enforcement set forth, the violator may be cited by means of an appearance ticket returnable in city court, where the imposition of further penalties may be sought.

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

XII. Vacant Property.

A. The owner of a vacant building shall take such steps and perform such acts as may be required of him from time to time to ensure that the building and its adjoining yard remain safe and secure and do not present a hazard to the adjoining property or the public. Owners shall be responsible for maintaining their buildings and structures so that they do not become an unoccupied hazard. In any building or floor area that is vacant or about to become vacant, there shall be at least one access which meets the approval of the Building Inspector.

B. Failure to comply; action by Building Inspector.

(1) Whenever the owner of a vacant building fails to comply with a notice from the Building Inspector to take steps and perform acts as are required of him to ensure that a building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property in violation of Subsection A above, or whenever due to diligence has been used to give notice, the Building Inspector may direct the Department of Public Works to enter onto the building and the property and take steps and perform acts to render the building and its adjoining yards safe and secure and free from hazards to adjoining property and the public. These acts shall include but not be limited to boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of sewer gas, or removing flammable or otherwise hazardous material and debris.

(2) A bill for the expenses incurred above shall be presented to the owners of the building and adjoining property consistent with the provisions outlined in Section VIII of this chapter.

C. All buildings, dwellings, dwelling units, multiple dwellings, rooming units, rooming houses, yards, courts, open areas, and vacant lots which are in violation of this chapter are hereby
declared to be a nuisance; and the city is hereby authorized to maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of this chapter.

D. The owners of a vacant building shall ensure that the exterior surface of a building and its adjoining property comply with the applicable provisions of this chapter.

XIII. Garbage and Sanitation.

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

B. Disposal facilities; container size.
   (1) Every dwelling unit shall have adequate covered garbage disposal facilities or garbage storage containers. Insufficient garbage disposal facilities shall be evidenced by the existence of additional bags of refuse beyond those that fill the existing garbage containers.
   (2) For the purpose of this chapter, a minimum of one twenty-gallon leak proof, covered garbage container or its equivalent per dwelling unit shall be deemed to be adequate garbage disposal facilities.

C. Every occupant of a rental unit shall dispose of all his garbage and other organic waste in garbage disposal facilities or garbage storage containers in a clean and sanitary manner. It shall be the owner’s responsibility to supply facilities so that section X.B.1 is satisfied or containers for all rental units and cause them to be utilized at all times.

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

E. Extermination of insects; rodents and other pests.
   (1) A tenant shall be free from the responsibility to exterminate when the infestation is caused by the failure of the owner to maintain the dwelling in a rodent proof or reasonably insect proof condition.

F. No garbage or rubbish designated for disposal shall be place at the curb line earlier than the evening preceding the normal garbage collection day. All empty garbage receptacles must be removed from the curb line within 24 hrs of garbage pick-up.

XIV. Designation of Unfit Dwellings.

(1) Which by reason of its failure to comply with the foregoing requirements of this chapter, is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or the public.

(2) One which lacks illumination, ventilation or sanitation required by this chapter so as to protect adequately the health or safety of the occupants or of the public.
A. Service contents. An order designating the premises as unfit for human habitation shall be served upon the owner personally or by certified mail return receipt, (and to) all occupants personally or by regular mail, and posted in a conspicuous place on the building.

B. Hearing. A hearing shall be held within seven days of service upon the owner to review the designation as unfit by the director. A hearing officer shall be appointed by the Mayor to preside. The owner, occupants and any other interested parties may appear and give testimony. The hearing officer, after considering all the evidence, may sustain, modify, or revoke the order of the director designating the premises as unfit for human habitation.

C. Decision. The decision of the hearing officer shall be in writing and mailed to all interested parties. It shall specify the reasons for sustaining, modifying or revoking the designation of the director. Any premises condemned as unfit for human habitation, and so designated, shall be placarded and vacated within the time ordered by the hearing officer.

D. Reoccupation. No rental unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the Building Inspector stating that the defect or defects upon which the condemnation and placarding action were based have been corrected.

E. No person shall deface or remove the placard for any rental unit which has been condemned as unfit for human habitation and placarded except as provided for in Subsection D above.

XII. XV. Penalties.

A. Any person found guilty of violating or assisting in the violation of any provisions in Sections XI and XII XIV of this chapter, or any person who shall have been served with a written order by the hearing officer and who shall fail to comply with the order, shall be guilty of a violation, and liable for a fine not exceeding $1,000 or by imprisonment for a period of not more than 15 days, or both.

B. Any person found guilty of violating or assisting in the violation of any provision in Sections XI and XII XIV of this chapter or any person who shall have been served with a written order by the hearing officer and who shall fail to comply for the second or more time in a two-year period shall be guilty of a misdemeanor and liable for a fine of not less than $500 nor $2,000 or by imprisonment for a period of not more than six months, or both.

C. Except as provided for in Section XIII and B of this chapter, whenever a person has been convicted three or more times for the violation of any provision of this chapter within five years, such person shall be punished by a fine of $1,000 and may additionally be punished by imprisonment not to exceed 15 days’ incarceration, except as provided for by Section XIII.

D. Upon motion of corporation counsel, and upon a finding by the court that justice so requires, the court may assess an appropriate fine in an amount less than $1,000 and/or may sentence a defendant to an appropriate conditional discharge in lieu of jail.
XIII. XVI. Conflict of Ordinances.

A. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City of Plattsburgh existing of the effective date of the ordinance from which this chapter is derived, the provision which established the higher standard for the promotion and protection of health and safety of the people shall prevail. In any case where a provision of the chapter is found to be in conflict with any other chapter or code of the City of Plattsburgh existing on the effective date of this chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail; and the other chapters or codes are declared to be repealed to the extent that they may be found to be in conflict with this chapter.

B. Notwithstanding the availability of other remedies for enforcement of the provisions contained in this chapter, the building code (Chapter 5), plumbing code (Chapter 10), fire prevention code (Chapter 8) and Zoning Ordinance (Appendix A) of the City of Plattsburgh, and in other state and local laws, ordinances or regulations enforced by the department the remedies and enforcement procedures set forth in this chapter are made available to enforce the provisions of the above-enumerated codes and laws and shall be deemed cumulative to other enforcement procedures and remedies. (“Like language from existing Plattsburgh code should be inserted here.”)

XVII. Administrative Remedies for Property and Building Nuisances

Section 1. Applicability. This chapter shall be applicable to the public nuisances defined in Section I of this chapter (local law).

Section 2. Powers of the Mayor with respect to public nuisances.
A. In addition to and as an alternative to the enforcement procedures established elsewhere, the Mayor or the Mayor’s designee, after notice and opportunity for a hearing may, pursuant to Section III, deem the existence of a public nuisance as such is defined thereunder and shall thereafter be authorized:

1. To order the closing of the building, erection, place or place of business to the extent necessary to abate the nuisance, shall be authorized:

2. To suspend for a period not to exceed six months or revoke for a period of one year a Certificate of Use issues for such premises. and to prevent the operator from obtaining a new Certificate of Use for another location foj the period of suspension or revocation: or

3. To suspend for a period not to exceed six months or revoke for a period of one year and occupational licensee or permit issued by the City related to the conduct of a business or trade at the premises. which suspension or revocation shall also apply to any other locations operated by the holder for which the license or permit is required: or

4. To suspend for a period not to exceed six months or revoke for a period of one year eligibility to secure grants or loans from the City of Plattsburgh: or

5. Any combination of the above.
Appendix

Definitions

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

ACCESSORY APARTMENT — An apartment with not more than two bedrooms, allowed by a special permit in an owner occupied dwelling. See section 270-28 I infra for other standards governing Accessory Apartments.

ACCESSORY BUILDING – A building or structure on the same lot with and subordinate to a principal building, occupied or devoted exclusively to an accessory use. Where an “accessory building” is attached to a principal building by a breezeway, roof, wall or the like, such “accessory building” shall be considered part of the principal building.

ACCESSORY USE – A use customarily incidental and subordinate to the principal and primary use upon any premises.

ADULT ARCADE - An establishment where film, slides, or any other images of specified sexual activities or specified anatomical areas are available for viewing by the public.

ADULT BOOKSTORE OR ADULT VIDEO STORE - A bookstore or video store where as one of its principal business purposes offers for sale or rental any printed matter or videocassettes that depict “specified anatomical areas” or “specified sexual activities.” For the purpose of this definition, a principal business purpose shall mean that part of the business that constitutes 10 percent or more of the printed material or videocassette retail value for sale or rent in the establishment.

ADULT CABARET - A nightclub, bar, tavern, [juice bar] or similar establishment, whether or not such establishment is licensed to sell alcoholic beverages, where persons appear in a state of nudity, or where there are live performances, films, videocassettes or slides characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

ADULT USE OR ENTERTAINMENT ESTABLISHMENTS - An establishment, or any part thereof, which includes any of the following: topless or bottomless dancers or waitresses; strippers; topless hair care or massages; entertainment where the servers or entertainers wear pasties or G-strings; adult cabaret; adult arcade: adult bookstore; or adult video store.

ALLEY – A public or private way having a right-of-way width of twenty (20) feet or less.

ALTERATION OF BUILDING – As applied to a building or structure, any change or rearrangement in the structural parts or existing facilities of such building or structure or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location or position to another.

APARTMENT – One (1) or more dwelling rooms, with private bath and kitchen facilities, comprising an independent self-contained dwelling unit in a larger building.

APPLICANT – A developer submitting an application for development.
APPLICATION FOR DEVELOPMENT – The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned unit development, special use or zoning variance.

AREA, LAND – When referring to the required area per dwelling unit, net land area, the area exclusive of a street and other public open space.

ATTIC – The open, uninhabitable space between the ceiling beams of the top habitable story and the roof in any building.

BASEMENT – That space of a building that is partly below grade, which has more than one-half (1/2) of its height, measured from the floor to ceiling, above the finished grade of the ground adjoining the building.

BED AND BREAKFAST – A dwelling occupied by a family and used incidentally to provide accommodation and means to transient travelers and includes a tourist home, but does not include a boarding house, rooming house, domiciliary hostel, group home, motel or hotel.

BLOCK – A plot of land which is bounded on all its sides by public streets or places.

BOARDING, LODGING OR ROOMING HOUSE – A dwelling or part thereof where, for compensation, lodging or meals, or both, are provided for non-transient guests.

BUFFER ZONE – An area of land, designated by the Planning Board or Zoning Board of Appeals as a condition of a permit or approval, intended to preserve or protect adjoining lands from a use that may adversely affect an existing, adjoining use, neighborhood or zoning district. Structures and parking areas are prohibited in buffer zones. Buffer zones may be included in lot open space calculations.

BUILDING – A combination of materials to form a construction that is safe and stable, adapted to permanent or continuous occupancy for public, residence, business, assemble or storage purposes. The term “building” shall be construed as if followed by the words “or part thereof”.

BUILDING COVERAGE – The area of the plot of land covered by a principal and accessory buildings and structures. This includes the combined ground floor area of all buildings and structures on a lot, measured at the outside face of the exterior walls, including roofed porches, balconies, and cantilevered parts of the building at any level, but not including, however, any structures, the heights of which do not exceed five (5) feet.

BUILDING, HEIGHT OF – The vertical distance from the average grade adjacent to the foundation walls to the top of the highest finished roof surface of a flat roof or to the average height of a pitched, gabled, hip or gambrel roof.

BUILDING LINE – The line, established by statute, local law or ordinance, beyond which a building shall not exceed. This line is located within the bounds of a lot and is parallel to a property line at a distance from the respective property line equaling the respective required front, rear, or side yard.

BUILDING OR STRUCTURE, NONCONFORMING – An established building or structure lawfully existing prior to and at the time of adoption of this chapter which, because of its inherent nature or construction, does not conform to and with the provisions of this chapter for the district in which it is located.
BUILDING, PRINCIPAL – A building, including covered porches, in which is conducted the principal use of the lot on which it is situated.

BULK – A term used to describe the size, volume, area and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures or other walls of the same building and all open spaces required in connection with a building, other structure or tract of land.

CELLAR – That space of a building that is partly or entirely below grade and which has more than one half (1/2) of its height, measured from the floor to ceiling, below the finished grade of the ground adjoining the building.

CHANGE OF USE – A change from the use permitted in one zone district to a use permitted in another zone district, or a change from a permitted use to another kind of permitted use in the same zone, or any removal of a building from one location to another, or the conversion of any building or any part thereof from a use permitted in one zone district to a use permitted in another zone district, or the conversion of any building or any part thereof from a permitted use to another kind of permitted use in the same zone.

CHURCH or OTHER PLACE OF WORSHIP – A building use for public worship by the members or representatives of a religious sect or organization as defined by state statute,

CITY PROPERTY – Includes any land or lands over which the City of Plattsburgh, New York, maintains control, including the public streets, the public sidewalks, from the inner line thereof, adjacent to the property line fronting thereon, and the space between the sidewalks and curbs.

CLUB – A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose on an exclusively not for profit basis, does not provide overnight accommodations and which renders a service which is customarily carried on as a business and which is not an adjunct to or operated by or in connection with a public tavern, café, or other public place.

COLLEGE or UNIVERSITY – A college or university giving general academic instruction. Included within this term are areas or structures used for administration, housing of students and faculty, dining halls and social or athletic activities when located on the institution’s land that is not detached from land where classroom facilities are maintained.

COMMOM OWNERSHIP – Ownership of two (2) or more contiguous parcels of real property by one (1) person or by two (2) or more persons owning such property in any form of joint ownership.

CONDITIONAL USE – A use permitted in a particular zone district only upon showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this chapter and upon the issuance of an authorization therefore by the Zoning Board of Appeals.

CONDOMINIUM – A building or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by the owners on a proportional undivided basis.

COOPERATIVE HOUSING PROJECT – A multiple unit residential building, the owners of which jointly administer and maintain all dwelling units and building services, facilities and amenities.
COURT - An open, unoccupied space, other than a yard, on the same lot with a principal building, which is wholly or partially enclosed by a building, wall or other structure.

(1) INNER COURT - A court surrounded on all sides by walls or by wails and a lot line which is not a street line.

(2) OUTER COURT - A court extending for its fill width to an opening upon a street or yard.

DAYS - Calendar days.

DEVELOPER - The legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development, including the holder of an option or contract to purchase or other persons having an enforceable proprietary interest in such land.

DEVELOPMENT- The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure and any use or change in the use of land for which permission may be required pursuant to this chapter.

DRAINAGE RIGHT-OF-WAY - The lands required for the installation of storm water sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage and including lands intended as flood control basins.

DRIVE-IN BUSINESS - Includes drive-in outdoor theaters, refreshment stands, banks and the like where patrons enter the premises and are served or entertained in automobiles.

DRIVEWAY - Land situated on a lot, used or intended to be used to provide access to it by vehicular traffic.

DUMP - A lot or land or part thereof used primarily for the disposal, by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING UNIT - A structure or portion of a structure containing a unit comprising living accommodations designed and used for occupancy by only one (1) family.

EATING AND/OR DRINKING ESTABLISHMENT — A restaurant or similar facility providing for the sale and consumption of food beverages by the public on the premises.

EMERGENCY SITUATION - An immediate and substantial threat to the health or safety of occupants in a dwelling of the general public. Conditions constituting an emergency shall include but not be limited to a loss of significant water, heat, ventilation, or sanitary conditions of facilities; and immediate fire hazard; or a loss of lighting facilities that causes an immediate threat to the health or safety of the occupants.

ENFORCEMENT OFFICIAL – The Building Inspector or his designee, the Superintendent of Public Works or his designee, the Chief of Police or his designee, the Fire Chief or his designee, or the City Engineer or his designee
FAMILY
a. Any number of individuals related by blood, marriage or adoption and up to three (3) unrelated roomers living together in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common: or

b. One (1) to four (4) individuals unrelated by blood, marriage or adoption occupying a premises and living together in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common: or

c. Any number of individuals unrelated by blood, marriage or adoption, living together as a functional family (see definition of functional family) in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common.

FUNCTIONAL FAMILY
A group of individuals living together within a single dwelling unit in a family-like living arrangement, that: (-a) in size, appearance and structure resembles a family of related individuals or (b) is headed by a person or persons responsible for providing care for a reasonable number of individuals such as a home care facility for senior citizens.

A group of five (5) or more unrelated individuals, exclusive of minor dependent children, living together in the same dwelling unit shall be presumed to be living together as functional family that in size, appearance and structure resembles a family of related individuals. This presumption may be rebutted by sufficient evidence showing that their living arrangement possesses substantially each of the following four characteristics.

(1) The occupants share the entire dwelling unit. A unit in which occupants act as separate roomers shall not be deemed to be occupied by a functional family.

(2) There is joint ownership of the dwelling unit, or a lease whereby the occupants, except dependent occupants, are jointly and severally liable to pay the entire rent for the premises. In situations where the occupants have separate leases or rental agreements they shall be deemed to be living together as a single housekeeping unit.

(3) The presence of one or more occupants who is dependent, upon another occupant for their financial support.

(4) There is evidence of stability of the housekeeping unit, and that it is not transitory in character. The following criteria shall be considered in determining stability.

(a) Evidence that the occupants intend to reside together on a permanent rather than on a transient basis, such as a showing that the household has been living together for 12 months or more.

(b) The sharing of household expenses by the occupants, such as utility bills, insurance, real property taxes, cleaning supplies, maintenance costs, food, and household supplies.

(c) Joint or common ownership of household furnishings located in the common areas of the dwelling unit.

(d) The presence of dependent persons regularly residing in the household.
(e) The fact that different members of the household use the household address for purposes of voter registration, drivers license, motor vehicle registration, and filing of taxes.

(f) Any other factors that show that the group is of a permanent rather than a transient nature.

GROUP RESIDENCE - A residence occupied by five (5) or more unrelated individuals who are not a family.

FLOOR AREA - The aggregate area of all floors in a building enclosed by an exterior wall, excluding, however, attic and unfinished basement floors not used for anything other than storage or the location of mechanical utilities, open porches, balconies, stairways, breezeways and garages, as measured between inside faces of exterior walls.

FLOOR AREA RATIO - The floor area of a building divided by the area of the lot which it occupies.

FRATERNITY HOUSE, SORORITY HOUSE, DORMITORY AND RESIDENCE HALL - A facility used for the housing, with or without dining facilities, of students attending a college or university as defined herein. Or an institution recognized by a local college or university that has not had its charter revoked by an overseeing authority. However, for purposes of consideration of area, bulk and special requirements of this chapter, such facility shall be considered a boarding-, lodging or rooming house.

GARAGE:
(1) PRIVATE GARAGE - A garage not conducted as a business or used for the storage space for more than one (1) commercial vehicle, which shall be owned by a person residing on the premises.

(2) PUBLIC GARAGE - A garage conducted as a business. The rental of storage space for more than two (2) passenger cars or for one (1) commercial vehicle not owned by a person residing on the premises shall be deemed a business use.

SERVICE STATION - A structure, building or premises or any portion thereof that is used for the sale of gasoline or any other motor vehicle fuel or oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

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

GRADE - When a curb level has been established, the curb level. When a curb level has not been established or when the natural surface is at a different level than the curb level and remains unchanged, ‘grade” shall mean, with respect to a building, the average ground elevation adjoining the building.

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

HAZARDOUS CHEMICAL — Solid, liquid, or gaseous substances which pose a potential hazard to human health or the environment when improperly treated, stored, transported, dispose or otherwise
managed, including but not limited to the hazardous substances designated by the U.S. Environmental Protection Agency under section 311 of the Clean Water Act (40 CFR 116)

HEARING OFFICER - The Mayor or any member of the City administration or resident of the City of Plattsburgh designated in writing for that purpose by the Mayor, excluding any member of the Building Inspector’s Office

HIGH RISE - Any structure located in an R-2 or RC District which exceeds thirty-five (35) feet and or two and one/half (2 1/2) stories in height and also any structure located in a C District which exceeds thirty-six (36) feet and/or three (3) stories in height.

HISTORIC DISTRICT - A geographically defined area possessing a significant concentration or continuity of landmarks, improvements or landscape features united by historic events or by physical development, and which area has been designated as an historic landmark district: said district may have within its boundaries noncontributing buildings or other structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual character of the district.

HISTORIC SITE - means land or a structure identified as an Historic Building or Place on the National Register of Historic Places, or an inventory of Historic or Architecturally significant structures prepared or approved by the New York State Office of Historic Preservation, a copy of which shall be kept on file in the office of the Building Inspector.

HOME OCCUPATION - Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental to and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. “Home occupations” may be construed to include dressmaking, millinery, home cooking, musical instruction limited to a single pupil at a time, art studio and activities of a similar nature. Including Home-based computer related or telemarketing operations “Home occupations shall not be construed to include barbershops and beauty parlors, public stables, real estate offices, kennels, animal hospitals, restaurants and tearooms, musical instruction to groups, dancing instruction to groups, nursing homes, nursery schools, public garages, plumbing or electrical shops or shops for other trades or businesses of a similar nature, nor shall any customary “home occupation” be construed to include that which requires the presence in the home of machinery or equipment normal11 associated with commercial or industrial activities or which produces offensive noise, vibration, smoke, dust, odors, heat, glare or other nuisance.

HOME, TOURIST - A dwelling in which overnight accommodations are provided for transient, paying guests.

HOSPITAL - An establishment for temporary occupation by the sick or injured for the purpose of medical diagnosis and treatment, including sanatoriums, and shall be limited to the treatment or other care of humans.

HOTEL - A building in which lodging is provided, with or without meals, and offered to the public for compensation and which is open to transient guests, as distinguished from a boardinghouse or rooming house, apartment hotel, fraternity or sorority house.

INDUSTRIAL OPERATION OR USE - Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or any part of which is marketed off the premises or marketed to other than the ultimate consumer.
INDUSTRY - The location or premises used for any industrial operation.

INSTITUTIONAL USE:
(1) NONPROFIT INSTITUTIONAL USES - Those uses limited to churches, public or private schools covering kindergarten through Grade 12, hospitals for humans, libraries and uses by the municipal, state or federal government.

(2) PROFIT-MAKING INSTITUTIONAL USES- Those uses limited to sanatoriums and nursing homes.

INTERESTED PARTY:
(1) In a criminal or quasi-criminal proceeding, any citizen of the State of New York.

(2) In the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the city, whose right to use, acquire or enjoy property is or may be affected by an action taken under this chapter or under any other law of this state or of the United States or has been denied, violated or infringed by an action or a failure to act under this chapter.

JUNKYARD - A place over two hundred (200) square feet in area where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumberyards and places or yards for used or salvaged house wrecking and structural steel materials and equipment, as distinguished from such uses when conducted entirely within a completely enclosed building and as distinguished from pawnshops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment and the processing of used, discarded or salvaged materials as part of manufacturing operations. One (1) or more motor vehicles not properly registered and inspected and licensed by the State of New York or not in operating condition for a period of over sixty (60) days shall be deemed to constitute a ‘junkyard’.

KENNEL - Any establishment or building, including cages, dog runs and structures, wherein more than three (3) dogs or cats which are over six (6) months old are harbored, and such use shall be considered a business.

LAUNDRY, COIN- OPERATED AND DRY CLEANER —A business premises equipped with individual clothes washing and drying and or cleaning machines for the principal use of retail customers.

LIGHT INDUSTRIAL USE — The assembly, manufacture, fabrication, processing, or other handling of products. The operation of which is conducted solely with a building or group of buildings, and which does not involve any of the following: (a) the outdoor storage of materials: (b) dissemination of noise, vibration, odor, dust, smoke, observable gas or fumes, or other observable atmospheric pollutants beyond the exterior walls of the building where the use is conducted; (c) the creation of airborne, liquid, or solid hazardous chemicals. A light industrial use may include food and beverage facilities, showrooms, retail sale that are incidental to promoting the sale of the product produced on the site.

LIVESTOCK- Farm animals kept for use, for propagation, or for intended profit or gain and without limiting the generality of the foregoing includes: dairy and beef cattle, horses, swine, sheep, laying hens, chicken and turkey broilers, turkeys, goats, geese, mink and rabbits.
LODGER, BOARDER or ROOMER - A person, other than a family member of a family occupying a part of any dwelling unit, who, for a consideration, is furnished living accommodations in such dwelling unit.

LOT - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. The boundary line of the City of Plattsburgh shall be deemed the lot line of any parcel of ground abutting thereon.

LOT AREA - The total square unit content of any lot, as measured within the lot lines.

LOT, CORNER - A lot at the intersection of two (2) or more streets and which has an interior angle of less than one hundred thirty-five degrees (135°) at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a “corner lot” if the tangents to the curve at the points of intersection of the side lot lines inter-sect at an interior angle of less than one hundred thirty-five degrees (135°).

LOT DEPTH - The mean distance between the front, and rear property lines of any lot. If a lot shall not have parallel rear and front lines, the average of such depths taken perpendicular to the front street side line throughout the width of the lot shall constitute the average depth of the lot.

LOT FRONTAGE - The shortest distance between the intersection points of the side lines of a lot with the front street right-of-way line. In the case of corner lots, the frontage shall be measured along a straight line between the intersection point formed by the projection of two (2) street side lines and the intersection point of a side lot line with a front street right-of-way line. In the case of a lot running through from one street to another, the front of such lot shall, for the purpose of this chapter, be considered that frontage upon which the majority of the buildings in the same block fronts, but in case there has been no clearly defined frontage established, the owner may, when applying for a building permit, specify on his permit application which lot line shall be considered the front lot line.

LOT, INTERIOR - A lot other than a corner lot.

LOT OF RECORD - Any lot which has been established as such by plat, survey, record or deed prior to the date of this chapter, as shown on the records of the Clinton County Clerk’s office.

LOT, THROUGH - An interior lot having frontages on two (2) parallel or approximately parallel streets.

LOT WIDTH - The shortest straight line distance between the two (2) side lines of any lot. If a lot shall not have parallel side lines, the average of such widths parallel to the front Street side line throughout the depth of the lot shall constitute the average width of the lot.

MOBILE HOME - A structure capable of sustaining static and dynamic loading, which is constructed on a chassis assembly and designed for use without a foundation, but which may or may not be located on a foundation.

MOBILE HOME PARK - A tract of land which is used or intended to be used for the parking of ten (10) or more mobile homes.
MOTEL - A series of attached, semidetached or detached dwelling units (one- or two-story) containing bedroom, bathroom and closet space, where each unit has convenient access to a parking space for the use of the unit’s occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients.

NEIGHBORHOOD AND CONVENIENCE TYPE COMMERCIAL FACILITIES - Small scale business, including both retail and personal service establishments, which meet frequently recurring needs of nearby residents and visitors to nearby public recreational facilities. Such facilities shall be limited to less than 1600 square feet of total floor area. These facilities include:

1. barber and beauty shops.
2. bicycle sales and repair shops
3. candy, ice cream and confectionery shops
4. greeting card shops, retail
5. dairy products, retail
6. pastry and coffee shops
7. drugstores, retail
8. florists, retail
9. grocery, fruit, meat, and vegetable stores, retail
10. laundry or dry cleaning pickup stations
11. marine equipment sale shops
12. newspaper, magazine, book and stationary stores
13. shoe repair shops
14. video rental stores

NONCONFORMING LOT - A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

NONCONFORMING STRUCTURE - A structure, the size, dimension or location of which was lawful prior to the adoption, revision or amendment of shall Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

NONCONFORMING USE - A use or activity which was lawful prior to the adoption, revision or amendment of a Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

NURSERY SCHOOL or DAY-CARE FACILITY - A school or facility designed or used to provide daytime care or instruction for four (4) or more children from infant to five (5) years of age, inclusive, and operated on a regular basis.

NURSING HOME - A building or group of buildings in which nursing care and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in the State of New York for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who do require skilled nursing care and related medical services.

OCCUPANT - A person who: owns and occupies a dwelling unit; signs a rental lease for a dwelling unit; provides money in exchange for the ability to occupy a dwelling unit; who spends a significant portion of each 24-hour period for 14 consecutive days in the dwelling unit, stores clothing and
other personal items in the unit, uses the unit’s address in order to receive mail, or shares in expenses other than the rent such as for food used in common or utility costs.

OCCUPANCY or OCCUPIED - The residing of a person or persons in a dwelling unit overnight or the installation, storage or use of equipment, merchandise or machinery in any commercial, public & industrial building.

OPEN SPACE - The open unobstructed space from ground to sky at grade on a lot accessible by walking and which is suitable for and maintained as grass, flowers, trees, bushes and other landscaping and includes any surface walk, patio or other similar area but does not include driveway or ramp, whether surfaced or not, any curb, retaining wall, parking area or any open space beneath or within any building or structure.

OVERLAY ZONING DISTRICT - [added by Ordinance 9-14-95] An overlay zoning district is a particular geographic area where there is a specific concern that has been identified as an additional zoning requirement over and above the existing zoning designation. An overlay district may encompass more than one presently zoned district and the overlay district provides additional regulations for the land it includes. The zoning text will describe these additional regulations.

OWNER - Any individual, firm, association, syndicate, co partnership or corporation having sufficient proprietary interest in the land sought to be processed for development under this chapter.

PARKING AREA - An open area, other than a street or other public road or way, used for the parking of motor vehicles, including access drives or aisles for ingress and egress.

PARKING MANEUVER AREA - That portion of the parking area, exclusive of parking spaces, designed and used for the purpose of maneuvering vehicles into designated parking spaces.

PARKING SPACE - A rectangular space, either outdoors or enclosed within a structure, used for accommodation of off-street motor vehicle parking.

PAVED AREA - An area covered with impervious material, such as bituminous concrete, asphalt or concrete, of sufficient depth to support the anticipated load factor of the area in accordance with standard accepted engineering practice.

PERSON - Includes any person, individual, business entity, partnership, corporation, company, organization or legal entity of any kind or nature.

PLAT - The map or maps of a subdivision.

PREMISES - A lot, together with all the buildings and uses thereon.

PRINCIPAL USE OR STRUCTURE - A “principal use” is the primary or predominant use of any lot. A “principal structure” is one devoted to the principal use.

PRIVATE SWIMMING POOL - Any artificially constructed basin or other structure designed to contain water for use by the possessor, his family or guests for swimming, diving and other aquatic sports and recreation with the maximum depth of water in the structure greater than twenty four inches. The term
“swimming pool” does not include any plastic canvas or rubber pool temporarily erected upon the ground without chlorination and/or filtration equipment. The term does include hot tubs and jacuzzis.

PROFESSIONAL OFFICE - An office principally occupied by a lawyer, engineer, architect, accountant, insurance agent, stock broker, financial planner real estate agent or similar occupant. [Added 3-1-84; effective 3/16/84]

PUBLIC - Owned, operated or controlled by a governmental agency (federal state or local), including a corporation created by laws for the performance of certain specialized governmental functions, a public school district or service district.

PUBLIC UTILITY FACILITIES - Telephone and electric lines, poles, equipment and structures and water or gas pipes, mains, valves or structures or sewer pipes, valves or structures maintained, operated and conducted for the service, convenience, necessity, health and welfare of the general public, whether owned by any arm or creature of the local, state federal government or by any privately owned public utility corporation.

QUARRY, SAND PIT, GRAVEL PIT OR TOP SOIL STRIPING - A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or soil for sale as an industrial operation and exclusive of the process of grading preparatory to the construction of a building or highway construction.

RESIDENCE - A structure or portion of a structure set aside for the separate private occupancy of a family and containing necessary living, sleeping, dining, sanitary and kitchen facilities designed for the sole use of the family.

SINGLE-FAMILY RESIDENCE - A freestanding detached structure which contains a residence designed for an occupied by one (1) family as defined herein.

TWO-FAMILY RESIDENCE - A freestanding detached structure which contains residences separated by either horizontal floors or vertical walls, which are designed for and/or occupied by two (2) families as defined herein.

THREE-FAMILY RESIDENCE - A freestanding detached structure which contains residences separated by either horizontal floors or vertical walls, which are designed for and occupied by three (3) families as defined herein.

MOBILE HOME RESIDENCE - A vehicle or movable dwelling structure which is designed to be used as a residence as defined herein.

MULTIFAMILY RESIDENCE - A building designed for occupancy by four (4) or more families living independently of each other and containing four (4) or more residences or dwelling units separated by vertical walls or horizontal floors unconnected except for access to the outside, common areas or to a common cellar.

TOWNHOUSE RESIDENCE - A building designed for occupancy by four (4) or more families living independently of each other and containing four (4) or more residences or dwelling units separated by vertical walls, each with a separate access to the outside.

SANITARIUM - A private hospital, whether or not such a facility is operated for profit.
SCHOOLS - Public schools covering any or all grades, pre-kindergarten through Grade 12, and full-time private schools covering any or all grades, pre-kindergarten through Grade 12, operated by charitable religious or eleemosynary organizations, which are attended to satisfy state mandated educational requirements.

SETBACK LINE - A line within the bounds of a lot parallel to a property line at a distance from the respective property line equaling the respective required front, rear or side yard.

SHOPPING CENTER - A group of buildings or separate shops, stores or offices on a single lot providing primarily retail services with supporting service and office establishments.

SPECIFIED ANATOMICAL AREAS - (a) Less than completely and opaquely covered: human genitals, pubic region, buttocks, female breast below a point immediately above the areola, or (b) human male genitals is a discernible turgid state.

SPECIFIED SEXUAL ACTIVITIES - (a) Human genitals in a state of sexual stimulation or arousal, or (b) acts of human masturbation, sexual intercourse or sodomy, or (c) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

STORY:
FULL STORY - That portion of a building included between the surface of any one floor, exclusive of any basement or cellar, and the surface of the floor next above it, or, if there is no floor above it, then that portion of the building included between the surface of any floor and the ceiling next above it, exclusive of any area between the horizontal plane of the eaves and the highest gable or slope of a hip or pitched roof.

HALF STORY - The habitable portion of a building which is a basement, as defined herein, and/or the area between the horizontal plane of the eaves and the highest gable or slope of a hip or pitched roof if the roof pitch exceeds five (5) on twelve (12).

SPECIAL USE PERMIT: “special use permit” shall mean an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.

STREET - Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway or is shown upon a plat heretofore approved pursuant to law or is approved by official action as provided by this chapter or is shown on a plat heretofore approved pursuant to law or is approved by official action as provided by this chapter or is shown on a plat duty filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

PRIVATE STREET - Any right-of-way designated on a site plan or subdivision plat as a route to be used for vehicular access to various locations of the site or subdivision, but not intended to be dedicated for public use.

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

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

STREET SIDE LINE - The outermost line of the whole area devoted to Street purposes on either side thereof “street side line” is synonymous with “street right-of-way line.”

STRUCTURE - A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land, that is safe and stable and includes, among other things, parking areas, stadiums, gospel and circus tents, reviewing stands, platform staging, observation towers, radio and television towers, water tanks and towers, trestles, piers, wharves, sheds, storage bins, walls, fences and display signs. The word “structure” shall be construed as if followed by the words “or part thereof”

SUBDIVISION - The division of any parcel of land into two (2) or more lots or the re-subdivision of existing lots.

THEATER - A building or part of a building devoted to presenting entertainment on a paid admission basis.

DRIVE-IN OUTDOOR THEATER - Open land with its appurtenant facilities devoted to the showing of motion pictures to patrons in automobiles.

TRAILER:
BOAT TRAILER - A vehicle designed exclusively for the transportation of one (1) boat. CAMP OR TRAVEL TRAILER - A vehicle or portable structure, not over two hundred fifty-six (256) square feet in floor area, equipped for but not regularly used for sleeping, but which may have sanitary facilities.

CARGO TRAILER - A vehicle, not over seventy (70) square feet in floor area, used for the hauling of cargo.

CAR SALES LOT - A lot where motor vehicles are stored for the purpose of sale or lease only.

USE - The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained. The term “permitted use” shall not be deemed to include any non conforming use.

YARD - An open, unoccupied space on the same lot with a building, situated between a lot line and the parts of the main building, exclusive of cornices and the uncovered porches & setting back from and nearest to such line.

FRONT YARD - A yard situated between the building and the street line, extending for the full width of the lot.
REAR YARD - A yard situated between the main building and the rear of the lot, extending for the full width of the lot.

REQUIRED YARD - A yard, as defined herein, which is required by provisions of this chapter to be maintained as a “yard”

SIDE YARD - A yard situated between the building and the side line of the lot and extending through from the front yard of the lot to the rear yard or, where no front or rear yard is required, to the front or rear line of the lot.
Appendix 4 - Registration, Inspection and Permitting of Rental Units
LEGISLATIVE DECLARATION:

The Common Council of the City of Plattsburgh finds that a void exists in the current regulation of rental units, which has resulted in a continuing problem of transparency and accountability of landlords and their tenants that has proven detrimental to the surrounding neighborhoods, particularly as regards those that are most transient in character. It is the purpose of the Council to: create an integrated system of registration, inspection, and permitting occupancy certification of rental housing units that will: clearly delineate those responsible for ownership and management of said units, and those living in the units; maintain housing standards through inspections every two years (24 months), or until change of occupancy, whichever comes first; protect those living within the rental units where fire and unsanitary conditions can cause harm; enhance the wellbeing of those living in rental units and verify compliance with the City’s Housing Code through the issuance of certificates of occupancy Rental Permits that are to be displayed in a visible location on the premises.

REGISTRATION OF RENTAL HOUSING UNITS

Part I: Registration of Existing and New Rental Dwellings Units

A) All rental housing units existing as of the effective date of this chapter shall be registered—by owners and lessors, or their respective agents — on or before December 31, 2007. The owner or lessor, or their respective agents, of a new rental unit dwelling, or any dwelling newly converted to a rental housing unit after that date, shall register the rental unit and obtain a Rental Permit from the Building Inspector’s Office prior to allowing occupancy of the unit.

B) Change in Registry Information: After December 31, 2007, the owner of any rental housing unit already registered with the city shall reregister within 30 days after any change occurs in registration information. A new owner of a registered rental housing unit shall reregister the dwelling within 60 days of assuming ownership.

C) Required Information: The city shall maintain a registry of all rental housing units containing the following information, which shall be provided by the owner or his agent on forms available from the Building Inspector’s Office:

1) The name, legal residence, and telephone number of the owner and any agent in control of the rental housing unit, and, in the event that the owner is a company or organization, then the owner information shall be that of the president, general manager, or other chief executive officer. When more than one natural person has an owner interest, the required information shall be included for each owner. The information required herein shall also include the address and phone number where the owner(s), agent(s), and/or responsible person(s) may be reached in the event of an emergency day and night, as well as the employer identification number in the event that the rental housing unit is owned by a corporation. If neither the address of the owner, or the agent in control of the premises, as provided in Subsection A, are within Clinton County, the name and legal residence or business address within Clinton County and telephone number of a natural person who shall be an agent for service of notices and orders issued under this chapter and for service of process in connection with the prosecution of violations of this chapter in Plattsburgh City Court, or other court of competent jurisdiction.
2) The number and type of rental units in the property as well as the number of permanent occupants in each unit on the property allowable under the applicable building and fire codes, as well as a description of the property, by street and number or otherwise.

3) The number of residents, the number of sleeping rooms, the number of families and/or unrelated individuals in each rental housing unit, as well as the number of vehicles owned by residents of the premises.

4) Such other appropriate information as may be requested, including, but not limited to, the number and type of rooms, the number of stories, the type of heating and location of such, the number of roves on the structure, the areas sprinklered systems, the location of egress from the building, the types and locations of escape ladders or stairs, and fire alarm controls and locations, etc.

D) Public Review: The Building Inspector’s Office shall maintain, for public review, a database of rental housing units that lists the information contained in Subsection C. and compliance status Rental Permit status.

E) Fees and Exemptions: To offset the administrative costs of preparing and maintaining the Registry, and conducting the inspections required under Part II of this chapter, the fee for the calendar year 2007 will be estimated by the Building Inspector’s Office by totaling the costs for all administrative services related to rental unit registration and inspections and dividing it by the total number of beds within all rental units in the City. In subsequent calendar years, the fee for registration and inspections will be determined by totaling all administrative costs associated with rental unit registration and inspections for the previous calendar year and dividing it by the total number of beds in rental units for the previous calendar year. A following schedule of fees for the initial and subsequent registration of rental housing units—and subsequent registration and inspection for each new occupancy, or renewal of certificate of compliance, in a single rental property is hereby imposed:

1) Dwelling Units: $30.00 per unit.

2) Rooming Units: $15 per unit

Owner-occupied rental units dwellings containing not more than one rental unit owned by one or more natural persons—all of whom are 65 years or older—are exempt from the registration and inspection fees set forth herein.

3) The Rental Unit Registration and Inspections Fee shall be paid once per year with the issuance of a Rental Permit valid for a period from January 1 to December 31 of the next year as long as the owner(s) of the property do not change within the calendar year. When ownership of a rental unit changes or if a building is converted to a rental unit, or if a new rental unit is constructed after January 1 of a calendar year, the new owner or owner of the new rental unit must pay the set registration fee multiplied by the fraction of twenty-four months remaining from January 1 of the year that registration is made.

F) Payment of Fees: Payment of the applicable fee under this subsection shall not be due until the Building Inspector’s Office has conducted an inspection of the subject premises and written notice is delivered to the owner thereof that the Office is prepared to issue a residential occupancy certificate Rental Permit as required under Part III of this chapter for such premises. This fee shall be paid to the City Chamberlain within 30 days of the billing date. If the fee is not paid within 30 days of the
billing date, the City Chamberlain shall enter the same as a lien against the premises as provided in of the Charter of the City of Plattsburgh. The Chamberlain shall add the same to the next assessment roll of general city taxes and shall collect and enforce the assessment in the same manner, proceedings, time, and penalties as the general city tax and as part thereof, except that, in addition to the penalties provided for in the aforementioned provisions, interest shall accrue from the date of billing to the date of actual payment at 12% per annum or $3 per month, whichever is greater.

G) Failure to Register or Providing Inaccurate or Incomplete Information: It shall be a violation of this chapter for an owner, or agent of same, to provide inaccurate information for the registry of rental housing units, or to fail to provide the information required herein for the registry. Failure to register a rental unit shall result in a fine of $1000 plus all administrative fees associated with registration and inspection. If upon discovery and inspection of the unit, it fails to be compliant with all applicable codes and is not brought into compliance for the issuance of Rental Permit within 30 days from the time it has been discovered then the Building Inspector can order that the property be vacated. Nothing in this part precludes the Building Inspector from issuing a vacating order should, in his judgment, the deficiencies found upon the initial discovery of the unit result in possible harm to the occupants.

Part II: Inspection of Dwellings

A) The Building Inspector, upon receiving a Rental Unit Registration shall inspect all the residential rental housing units shall be inspected promptly and make them available for occupancy through issuance of a Rental Permit by the Building Inspector’s Office, which The Building Inspector shall determine compliance with, administer, and enforce all applicable provisions of this chapter and the Code before issuance of a Rental Permit.

B) Mandatory Compliance: Except as otherwise provided herein, it shall be unlawful and a violation of this chapter to rent, lease, or otherwise allow the occupancy of any residential rental housing unit without the inspection and certification permitting as required herein. 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 in a notice and order, as provided in 1 of this section. The notice shall be served as set forth in 1 of this section. Occupants, or a Proposed occupants of rental housing units shall have the right to inspect the certificate of occupancy Rental Permit of the residential rental dwelling unit, apartment or multiple residence in which they have an interest at no cost.

1) All notices shall be sent by certified mail to the owner(s) and their agents at the address provided in the registration materials. If a unit fails to qualify for a Rental Permit, the reason with references to specific and applicable sections of the code shall be provided.

C) Owner’s Right to a Warrant: The Building Inspector’s Office shall have the right to inspect all or any part of the rental dwelling, including any unit or apartment, or entire multiple residence as required herein and/or upon complaint, except that the owner, agent, or person in charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Building Inspector, or his or her designee, in order to enable such inspection. The officials charged with conducting the inspection pursuant to Part II shall be required to obtain a search warrant whenever an owner, agent, or person in charge refuses to permit a warrantless inspection of the premises after having been advised that he or she has a constitutional right to refuse entry of the officials without a search warrant.

D) Request for an Inspection: The officials charged with conducting inspections shall make such inspections—access and circumstances permitting—within three days after receipt of a request of
registration by
on complaint from
An owner or agent, or
occupant may file with the Building Inspector’s Office a request for such inspection and
issuance of a residential occupancy permit by regular mail or in person at the Building
Inspector’s Office. An owner or agent initiates the inspection process by registering or
registering a property with the Building Inspector. An occupant may request an inspection by
doing so in writing with the Building Inspector.

E) Authority to Inspect: Nothing in this Part II shall be construed to limit the right of the Building
Inspector’s Office to inspect any property any time. If, after issuing a residential occupancy permit
Rental Permit, the Building Inspector’s Office receives a complaint alleging a violation of this
chapter, other than a violation that creates an imminent hazard to the public health or to the physical
or mental health of the occupants, the Building Inspector’s Office shall make a good faith effort to
notify the owner or agent of the complaint by either telephone or regular mail, before conducting an
inspection under this chapter, and shall provide to the owner or agent one working day to explain
what steps the owner or agent is taking to correct the violation. The Building Inspector’s Office may
take steps necessary, by inspection or other means, to assure that the violation is corrected.

F) Penalties for Offenses: Any person who shall knowingly and willfully violate or assist in the
violation of this Part II, or who fails to comply with a notice and order issued by the Building
Inspector’s Office under this Part II shall, upon conviction, be punished as set forth
__________________ of this Code.

Part III: Certificates of Compliance Rental Permits

A) Pursuant to the request of owners or lessors, or lessees—and upon full registry of the rental housing
unit and a satisfactory housing maintenance inspection of said unit—a certificate of compliance a
Rental Permit shall be issued and remain in effect for two years (24 months) from January 1 to
December 31 of the next year or from the time of issuance until December 31 of next year,
or until change of occupancy whichever occurs first. For a change on occupancy during a given
permit period, the inspection and issuance of a new Rental Permit must precede re-occupancy
of the rental unit. Prior to the expiration of the certificate of compliance without change in
occupancy, it shall be the responsibility of the owner of the rental housing unit to schedule an
inspection with the Building Inspector’s Office to obtain a new certificate of compliance Rental
Permit for the next calendar year, with fees as stated in Part I, E.

B) Non-Compliance: Failure of an owner of any rental housing unit to hold a valid certificate of occupancy
shall be deemed a violation of the Housing Code this Chapter and such unit shall be
ordered by the Building Inspector’s Office to be vacated until the property is brought into compliance
with this chapter. Verified over-occupancy will result in the immediate revocation of the
Rental Permit if it can be established that all occupants were living in the rental unit with the
knowledge of the owner(s) or their agent(s)-certificate of compliance.

C) Temporary Residential Certificate of Compliance: No Rental Permit shall be issued to any rental
housing unit that is in violation of any applicable City or state code, or is located on a property for
which there is an outstanding warrant for a violation of any section of __________. However, the Building Inspector’s Office may issue at its discretion a temporary Rental Permit upon
showing that remedial action is being taken to correct violations, which temporary certificate Rental
Permit shall be subject to review and revocable at the discretion of the Building Inspector’s Office.
No temporary certificate of compliance Rental Permit may be issued in cases where fire safety is
involved, such as defective electrical wiring, the absence of either an operating smoke detector or a
carbon monoxide detector where required, or improper or inadequate means of egress and other
conditions of like nature.

D) **Posting of Certificate of Compliance a Rental Permit:** All certificate of compliance Rental Permits granted to rental housing units shall be displayed in a visible location on the premises.

E) **Lose of Rental Permit for Violations Under the Housing, Property Maintenance and Nuisance Ordinance.** If under the Housing, Property Maintenance and Nuisance Ordinance, a rental unit garners fifteen (15) points in a period of six (6) months or Twenty-one points (21) within a period of twelve (12) months, the Building Inspector shall revoke the Rental Permit for the unit and order a vacating of the property. No new Rental Permits may be issued for that unit for a period of six months.

Part IV. Definitions to be developed