Plattsburgh City-College Commission Report

July 16, 2007
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This report is presented to Dr. John Ettling, President of the State University of New York College at Plattsburgh, and the Honorable Donald Kasprzak, Mayor of the City of Plattsburgh, on July 16, 2007, by a Commission impaneled on April 24, 2007 to review the issues and problems associated with the residential areas adjacent to the College.

Commission Members

- Edward Miller, Chairperson, Plattsburgh City-College Commission
- Alyssa Amyotte, Student, SUNY Plattsburgh
- Karen Larkin, Resident, City of Plattsburgh
- William Laundry, Vice President for Student Affairs, SUNY Plattsburgh
- Susan Levaque, Resident, City of Plattsburgh
- Stephen Matthews, Dean of Students, SUNY Plattsburgh
- Nancy Monette, Resident, City of Plattsburgh
- William Provost, Counselor, Ward 1, City of Plattsburgh
- Allison Swick-Duttine, Director, Fraternity and Sorority Life, SUNY Plattsburgh
Executive Summary
The Plattsburgh City-College Commission makes the following recommendations to the President and the Mayor for consideration as individual parts to a fabric that will provide progress towards solving the problems being encountered in the residential areas adjacent to the downtown area of Plattsburgh. The Commission recommends:

- The adoption of revisions herein to the current City Noise Ordinance (§206) and the Definition of Family (§270.4) found in the current City Code: adoption of the proposed ordinances titled herein, Housing, Property Maintenance and Nuisance and the Registration, Inspection and Permitting of Rental Unit. In addition, we urge the creation and subsequent adoption of a Cost Recovery Civil Host Liability Ordinance.

- The creation of Alternate Sentencing Options that provide a framework for a restorative justice approach to quality of life infractions.

- Planning and execution of stings at the local bars and house parties.

- The College lowering its Nexus threshold to include, not only the prosecution of those students charged with felonies, but also those charged with misdemeanors under the Student Code of Conduct.

- Regulating athletic teams at the College under the Student Conduct Code for Clubs and Organizations.

- The creation of an Alcohol and Other Drug Coordinator and a Coordinator for City-College Affairs.

- The creation of a student-driven standing committee on Campus-Community Relations.

- Creation of neighborhood associations in the City.

- The City joining the College in petitioning the State Liquor Authority for a moratorium on the issuance of new licenses for establishments in the downtown area.

- That the City adopt the logistical recommendations contained herein that relate to the Building Inspector’s Office.

- That the City and College adopt the logistical recommendations contained herein related to the operations of their respective police departments.

- That the City fosters the creation of a “Hospitality Zone” in the downtown area.

- That all enforcement agents become more proactive and pursue a zero-tolerance policy with respect to violations of any City Code and that the Judiciary assign full measure of penalties for violations.

- That the Fire Department will assist in building inspections.

- Adoption of the various actions suggested will herein help change the reasons for students to visit downtown be adopted so that the “bar” image can be changed.

- That a standing council of appropriate City departments be established to periodically review problem properties.
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**Introduction**

Numerous colleges and their host cities are taking strides to address the problems created by the interface between permanent residents of a city and college students living in or traversing the residential areas adjacent to their campuses. These problems most often have are associated with the over indulgence of alcohol. Abuse of alcohol has been an issue for many decades and the antics and rude, disruptive and intentionally destructive behavior that result from drunkenness have often been dismissed as expected behavior for young adults during their college years. Violent acts, including sexual assault and even death, have done little as separate incidents to create a clarion call for change. However, there is mounting evidence of alcohol’s effects on spurring criminal activity, contributing to health disorders and decreasing the possibilities for academic success.

As alcohol and other drugs act as catalysts for the emergence of problematic behaviors, colleges across the nation have developed programs to educate students about the deleterious effects of alcohol.\(^1\) Screening programs have been offered by health and wellness coordinators to help students determine if they have an alcohol problem. Norming campaigns, such as *4 or Fewer*\(^2\), have sought to change the expectations of students about how many drinks at an outing are considered the norm for being an average college student. Counseling efforts have also increased. Colleges have tightened on-campus drinking restrictions in response to state laws that increased the drinking age to 21. However, in spite of the efforts to combat the negative effects of alcohol, the problem persists and is growing\(^3\). As members of this Commission have noted in meetings, restricting the availability and freedom to consume alcohol in one location just causes it to move to another. In the case of Plattsburgh, the problem has moved off-campus to the local neighborhoods and taverns.

Local municipalities such as Plattsburgh have had to deal with the consequences of the problem behaviors often associated with alcohol and other drug use (but sometimes the behaviors arise in and of themselves) through enforcement of city ordinances and state laws. However, examination of the current ordinances available to enforcement offices in the City shows them less able to address behavioral and property issues in Plattsburgh than in other New York cities.

Colleges, like SUNY Plattsburgh, have in the past indicated that their ability to extend jurisdiction to help police the behaviors of their students in off-campus environs ends at the boundary of the campus unless a *Nexus*\(^4\) to the mission of the college can be established for the offending off-campus behavior. Since 1961\(^5\), when courts began to limit the power of *in loco parentis*, the provision of due process has been the rule, and the prosecution of students under the

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\(^1\) Plattsburgh offers *Alcohol 101* as an education tool for those who are found responsible of an alcohol infraction of the Student Conduct code.

\(^2\) This program has been used for several years at Plattsburgh State. While the anecdotal evidence is mixed on its efficacy, norming campaigns have been shown to be effective in changing cultural behavior.


\(^4\) Nexus is a legal term identifying a connection between the behavior and a college’s right to act on it under its own judicial process.

campus systems requires nearly the same levels of proof as in local or state courts. Nevertheless, colleges are beginning to re-examine where the Nexus line is drawn.

Problematic behaviors and alcohol and other drug use are impeding the ability of the students to learn and therefore the mission of the College. In addition, the behavior of some students has impeded the ability of the more permanent residents and the student residents of the local community from enjoying their homes or rental properties. The lost investment in learning – both tuition and state tax support – and the loss of the enjoyment of the home are real and serious matters that have been addressed by this Commission. From the perspective of the City of Plattsburgh, the outcomes of over indulgence and problematic behaviors drain resources from more serious criminal enforcement issues as well as strain the local judiciary.

While enforcement of alcohol and quality of life violations have increased in many college towns, the underlying issues need to be elucidated and educationally addressed. SUNY Plattsburgh knows many of the health effects, the criminal activity that emerges and requires enforcements and assignment of accountability, and, the damage to academic development that results. In turn, the College communicates these to the students. However, additional approaches are needed. Educational efforts must focus on civility, citizenship and other values rather than just the symptoms (e.g. vandalism, noise, excessive alcohol abuse, etc.). Students must be involved in creating the solutions for them to be most effective. To create the educational programs and involve the students requires conversation.

Author Margaret Wheatley writes⁶,

>I believe we can change the world if we start listening to one another again. Simple, honest conversation. Not mediation, negotiation, problem-solving, debate or public meetings. Simple, truthful conversations where we each have a chance to speak, we each feel heard, and we each listen well...

“...all change, even very large and powerful change, begins when a few people start talking with one another about something they care about. Simple conversations held at kitchen tables, or seated on the ground, or leaning against doorways are powerful means to start influencing and changing our world.

“When a community of people discovers that they share a concern, change begins. There is no power equal to a community discovering what it cares about.

Beginning the conversation with problems makes people defensive and shuts down open communication. Appealing to senses of values and pride, however, will allow people to accept the problems and become passionate about creating change. While this document focuses exclusively on the macroscopic level where only the problems can be seen, conversations on the personal level must be undertaken to create the solutions and appeal to the students’ and community members’ senses of values and pride. This approach will allow them to accept the problems and become passionate about creating change.

A second area often encountered in situations where colleges do not or cannot require students to remain on-campus for their entire college career (such as is the case with Plattsburgh) is the

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growth of the student rental unit. Problems associated with such housing are many times linked to unfettered freedom without cognition of duty or responsibility as well as alcohol use. While behaviors may be dominant in these types of situations, other problems present themselves such as run-down buildings and unkempt grounds. These issues detract from the value of the other residents’ homes, be they owners or landlords, who attempt to maintain a high standard for the neighborhood.

High density and high occupancy of student rental units, such as exists in the area bounded by Cornelia Street, City Hall Place, Durkee Street, Broad Street and Prospect Avenue, almost assures excessive noise, enhanced wear and tear rates on the properties, high demand on City services and reduction of property values for the non-rental units used as true single family residences. Without strict attention to building code rules, enforcement, and penalties, the situation encountered in the Center City area of Plattsburgh will continue to decline. This will lead to more vehement calls for change as well as the continued and increased calls for police and judicial intervention. Without adoption of the recommendations contained in this report, frustration will grow and eventually lead to loss of trust in City and College officials and even hopelessness.

This Commission, one of many groups\(^7\) over the years to examine the Center City problems, was impaneled by the Honorable Donald Kasprzak, Mayor of Plattsburgh, and Dr. John Ettling, President of SUNY Plattsburgh. The charge provided to the group on April 24, 2007, stipulated that a set of recommendations to address the problems be drafted by July of 2007. The recommendations were to be reasonable and realistic. Both executives would then share the recommendations with their respective senior officers to determine what could be pursued and what could not. The Commission invited many individuals to present their opinions regarding off-campus students or on-campus students when off campus\(^8\). These individuals presented information regarding what they thought the problems were, who was responsible for them and what should be done about them. The Commission also held an open meeting for business owners on June 27, 2007, in City Hall. At that meeting and in private correspondence to the Chair of the Commission, a number of issues were described by these owners:

- Problems such as skateboarding, fighting, breaking mirrors off cars, climbing on people’s roof tops, noise, destruction of plant containers, pulling up plantings by the roots, drunkenness, getting into bars with false identification.
- More groups than just college students getting into trouble.
- A desire to see more police on foot instead of in patrol cars.
- A desire to see the violators dealt with very strongly.

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\(^7\) See: Downtown Future Planning Commission Report; Alan Booth, Chairperson, 1995. Recommendation 8 of that report stated: “To maintain the public safety of Downtown, and eliminate the perception of an unsafe atmosphere through the following means: a) Enforce/enhance laws pertaining to noise, open container, etc.; b) Establish walking/biking patrol/presence; c) Improve lighting of Durkee Street Parking lots; d) Work with College to establish self patrols; e) Encourage lighting maintenance, particularly in walkway between Durkee and Margaret Street, and in Durkee Street Parking Lot area.” In a recreation of the first commission, a second group urged in 2001 that: “19. Increase 12-hour walking police presence and satellite office.”

\(^8\) See Appendix 6.
In addition, a few members of the Commission attended the 2007 Best Practices in Building University/City Relations Conference in Gainesville, Florida to gather ideas about successful programs established by other town/gown cities to address similar problems we have seen.

It must also be said that many members of the Commission have lived with these problems for years and or have dealt with the problems in their official capacities. These experiences are part of the history that guides the Commission even in this report. However, the history has not and cannot be a barrier to moving ahead. Political considerations and connections as well as collegial inertia to recognition of the need for change or innovative thinking cannot be allowed to subvert efforts recommended herein. All stakeholders: students, college officials, city department heads, enforcement agents, neighbors, landlords, alcohol vendors, judges, faculty and staff at all levels, must take this opportunity created by the Mayor and the President to begin anew; to “Imagine Plattsburgh”9 as not just a typical small city with a college and occasional problematic behavior but a merged city-college that is on its way to becoming much more.

In order to look forward, we the members of the Plattsburgh City-College Commission have adopted several premises that guided the development of recommendations in this report. These assumptions are:

- The neighbors who reside in the homes near the college of SUNY Plattsburgh are good people committed to the community as well as the well-being of all individuals who live among them and/or those who study at the College.
- The neighbors that live in the homes near the College have a right to a good quality of life unimpaired by problematic behaviors - be they created by students of SUNY Plattsburgh or by others.
- The young adults, who happen to also be students and reside in the neighborhoods adjacent to the College, have a right to live, work and study in the homes unimpeded by problematic behaviors and also want to be good neighbors to the more permanent residents of the area.
- Those who sell alcohol in Plattsburgh and the surrounding area, do not wish to profit from alcohol abuse, binge drinking, or knowing contribute to the development of alcoholism.
- The landlords, who own and rent properties in the vicinity of the College, do not want to offer substandard rental housing nor detract from the quality of life of the adjacent non-rental properties.
- The College, while not directly responsible for behavioral problems caused by some students in the neighborhoods, does bear a responsibility to assist the City in the education related to proper civic decorum as well as assignment of accountability when behaviors exhibited are not in the best traditions of the institution.
- The businesses in downtown Plattsburgh deserve an environment inviting to perspective customers and free of vandalism and any other detriments to smooth operations.

These tenets provide a positive structure to approach very difficult solutions whose form can easily become undermined by the long history that has preceded them.

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9 Attributed to Dawn Marie Turner at meeting of FAIR.
Recommendations

It should be noted that Recommendations 1 through 4 of this section rely on the:

“... combined effort and many hours of work spread over a period of approximately one year, by the citizens association, ... These laws represent viable solutions to problems that have plagued not only the Center City, but now migrated to other neighborhoods throughout Plattsburgh. ... Cities such as Albany, Binghamton, and Oneonta have each addressed the same problems Plattsburgh has. ... ¹⁰

They appear here because of the more recent work of Stuart Voss, Pat Miranda, Nancy Monette and Susan Levaque, as well as many others. The Commission has discussed them and it feels that they are worthy of additional consideration by the Common Council of Plattsburgh.

Note: Within the documents found in the Appendix, black text in the cases of the proposed changes to the Noise Ordinance and the Definition of Family is that found in sources for the current City ordinances. The black text in the proposed Rental Property Licensing and Nuisance Ordinances represent the original text of the F.A.I.R. group. The red text indicates changes that have been made to the original documents prepared by citizens noted above prior to full consideration by the Commission. Blue text indicates text that the Commission has amended or added. Any text not indicated for deletion is what the Commission has adopted as the text being recommended for consideration by the Common Council.

**Recommendation 1:**
Changes to Proposed City Ordinance on Noise Chapter 206
(See Appendix 1 for text of proposed changes)

1. **Rationale:** The Noise Ordinance has been in place in the City of Plattsburgh since 1988. Since that time, it has become apparent that some minor revisions of the ordinance should be made. The ordinance should clearly state the intent and purpose of the chapter and the City’s commitment to fostering the well-being of its residents and enjoyment by them of their homes.

Confusion has been suggested regarding the current ordinance (§206-3 A) with respect to noise generated within buildings with multiple units. Since the current wording only addresses the noise at the boundaries of a property, there was no way to address noise emanating from one apartment unit and passing through a wall into a separate and distinct apartment within the same structure. This has been addressed by the proposed addition of a new sub-subsection §206-3 A (2) with concomitant renumbering of the other subsections of §206-3 A. §206-3 E to §206-3 I have been added to address specific types of activities that generate noise: E – loud speakers/PA’s; F – Alarms/Barking Dogs; G – Noise around specific

¹⁰ Private Communication from Susan Levaque.
facilities such as hospitals; H – Moving; I – Construction. These items lend advice and direction for the enforcement of this ordinance.

§206-4 lists exceptions to the chapter. Here, clarifications on lawn mowing and normal use of power tools and snow blowing have been provided.

Since these proposed changes seem to offer clarification and better direction to enforcement officers and since it has been reviewed by the City Police Department, the Commission urges the City Council to adopt these changes at its earliest convenience.

2. Expected Outcomes: The proposed changes should lead to more clarity in the assignment of violations for this ordinance as well as the assignment of accountability for those cited and found guilty.

3. Assessment: A committee (whose membership should include the Police Chief of the City, a representative of the Mayor and several community members appointed at the Mayor’s discretion) should review the resultant outcomes of the adopted changes within two years. Recommendations for further amendments to address any shortcomings can be made at that time.

4. Cost: Additional costs to the City are expected to be minimal if these changes are adopted. Clearly, additional training would be required for enforcement personnel in order to learn about and understand the impact of the changes.

5. Timeline: The Common Council of the City of Plattsburgh should adopt these changes within the next six (6) months.

Recommendation 2:
Proposed Changes to the Definition of Family Under Zoning Chapter 270 Section 4
(See Appendix 2 for text of proposed changes)

1. Rationale: The New York Department of State has issued a Legal Memorandum as guidance to local municipalities regarding the definition of family under zoning laws. As the document states:

Any successful zoning scheme which purports to create and attain a single-family zoning district must contain a definition of family [Bolding Added]. Dating back to 1974, the U.S. Supreme Court and many state courts, including our New York Court of Appeals, have examined the question of the definition of family, both in enforcement proceedings and in declaratory judgment actions. ...

...Courts have regularly found a legitimate purpose in zoning regulations which are aimed at achieving a homogeneous, traditional single-family neighborhood. "A quiet place where yards are

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11 Legal Memorandum LU05: Definition of “Family” in Zoning Law and Building Codes, New York Department of State. [http://www.dos.state.ny.us/cnsl/family.html](http://www.dos.state.ny.us/cnsl/family.html)
Many municipalities in New York have adopted this discretionary review technique for defining family. For example, the City of Poughkeepsie zoning ordinance, in its definition of "family," contains a rebuttable presumption that 4 or more unrelated persons living in a single dwelling do not constitute the functional equivalent of a traditional family. The ordinance provides an opportunity for applicants to convince the Zoning Administrator that the group is the functional equivalent of a traditional family. The factors which must be considered by the Zoning Administrator are whether the group:

- shares the entire house
- lives and cooks together as a single housekeeping unit
- shares expenses for food, rent, utilities or other household expenses, and
- is permanent and stable.

Such an approach has met with success in the courts. In Unification Theological Seminary v. City of Poughkeepsie, 201 A.D.2d 484, 607 N.Y.S.2d 383 (2nd Dept. 1994), the Appellate Division upheld the City of Poughkeepsie's definition of "family" against a challenge that it violated the Due Process Clause. The Court held that it was valid to use a rebuttable presumption to establish which groups of unrelated individuals should be considered a family. For those municipalities which have enacted or are considering adopting definitions of family similar to that of the City of Poughkeepsie, this case lends constitutional support to those efforts.

Since the changes proposed to the definition of family for § 270-4 clarify the conditions for a functional family; add a presumptive clause which can be rebutted; and, adhere to the guidelines provided in the text of the Memorandum noted above, the Commission urges the City Council to adopt these changes.

2. **Expected Outcomes:** With the clarification and the addition of the rebuttable presumption, the enforcement of this definition within dwellings in the City can be more easily enforced.

3. **Assessment:** A committee (whose membership should include the Building Inspector, a representative of the Mayor and several community members appointed at the Mayor’s discretion) should review the resultant outcomes of the adopted changes within two years. Recommendations for further amendments to address any shortcomings can be made at that time.

4. **Cost:** This change to the code should involve relatively minor cost except for additional training for enforcement officers.

5. **Timeline:** The Common Council of the City of Plattsburgh should adopt these changes within the next six (6) months.
**Recommendation 3:**
**Proposed Housing, Property Maintenance and Nuisance Ordinance**
(See Appendix 3 for text of proposed changes)

1. **Rationale:** The residents of Plattsburgh have had to endure a great many problems created by some residences within the City. These problems have entailed infractions of the ordinances of the City and the laws of the State on a frequent basis. Because of the frequency of the violations, excessive drain on City resources has been the result. In addition, the nearby residents of such properties have had to endure a loss of value of their own properties as well as diminishment of the enjoyment of their homes. This has resulted in trauma and insult to residential neighborhoods.

Plattsburgh is not the only city in New York to be plagued with such problems. To countermand such problems, cities like Albany\(^{12}\), Binghamton\(^{13}\), Geneseo\(^{14}\), Oneonta\(^{15}\), and Oswego\(^{16}\) have enacted a variety of nuisance ordinances that raise the ability of a city to address properties where frequent infractions of the laws occur. While New York has criminal statutes\(^ {17}\) for nuisance properties, there is great difficulty in meeting the standards for knowledge and intent to a degree necessary for a criminal prosecution. Civil infractions only require a preponderance of the evidence to prove that a problem is in fact a problem.

*While there has been initial resistance to this proposal on philosophical and legal grounds, the Commission believes that the proposed ordinance deserves the attention of the City Council. If not this proposal, then we urge that a committee be established to review the various regulations that have been promulgated around the State and in other states and draft a different proposal that meets the spirit of the ordinance proposed in Appendix 3.*

2. **Expected Outcomes:** With the addition of a nuisance and property maintenance ordinance, City enforcement officers can begin to address properties where frequent violations of the law have contributed to a decline in the quality of life in the neighborhoods. Problem properties would be eradicated as the law is executed through court proceedings.

3. **Assessment:** The passage of a property management and nuisance ordinance within six (6) months will be evidence of initial success. A Committee (whose membership should include the Building Inspector, Police Chief, a representative of the Mayor and several community members appointed at the Mayor’s discretion) should review the resultant outcomes of the adopted ordinance at twelve (12) months past the enactment of the legislation. The assessment can use as measures for success, anecdotal information from

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\(^{17}\) See New York State Penal Law §240.45
the Building Inspector’s Office, Police Department and Court system as well as quantitative information on the number of properties with frequent violations within twelve (12) months time as compared to the preceding twelve (12) month period. Recommendations for further amendments to address any shortcomings of the adopted law can be made at that time.

4. **Cost:** It is difficult to address a cost for this recommendation. However, the penalty recommended for maintaining a nuisance property in the proposed ordinance may be as much as $1,000 a day as well as the amount needed to cover the extra expense of enforcement and prosecution. Therefore, the cost to the City should be recouped upon successful prosecution.

5. **Timeline:** The Common Council of the City of Plattsburgh should adopt a form of this ordinance within the next six (6) months.

**Recommendation 4:**

**Proposed Registration, Inspection and Permitting of Rental Unit Ordinance**

(See Appendix 4 for text of proposed changes)

1. **Rationale:** The renting of properties as a business in any City presents special demands for heightened safety considerations and attention to code violations. These demands require additional funding for a Building Inspector’s Office – more than can be reasonably borne by the general tax base.

   In addition, it is not unknown in cases where very transient occupancy occurs (less than a year) that the nature and lack of that occupancy may lead the occupants to be less than neighborly since they have less long-term investment in the community. Damage is common and sometimes widespread in such premises.

   In 2004, the last year that statistics were reported on the New York State Office of Fire Prevention and Control website, there were 22,984 fires in apartments in the State of New York, which included 140 injuries and 17 deaths. The property loss for these fires was $16,796,733.\(^{18}\) Plattsburgh has recently seen its share of fires in rental units:

   a. On October 1, 2005, a total of 32 people were left without living accommodations at 92 Court when a serious fire reportedly started on a balcony.\(^{19}\)
   b. On April 16, 2006, a total of 40 people were dislocated by four fires\(^{20}\) in various rental units.
   c. On April 21, 2007, nine people were displaced from a rental unit at 13 Lorraine Street.\(^{21}\)

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\(^{18}\) [http://www.dos.state.ny.us/fire/pdfs/finy/04structure.pdf](http://www.dos.state.ny.us/fire/pdfs/finy/04structure.pdf)
\(^{20}\) [http://www.wnbz.com/April%202006/041706.htm](http://www.wnbz.com/April%202006/041706.htm)
In some of these cases, it was difficult to determine who owned the property and who was in fact a resident of the property. This was key since it was important to identify if all of the occupants had been safely evacuated from the structure. Unlike the case of a single family home where neighbors in an emergency can more easily identify the occupants who might have been in danger, the transient occupants of rental units do not usually create the same type of relationships with the occupants of surrounding properties.

Damage that results within rental units perpetrated by the lessees can lead to serious threats to the safety of individuals who may come after them. These dangers may be unknown to even the owners of the property. It was even reported to the Commission that one set of lessees removed an entire wall between apartments so that a larger space could be created for holding parties.

*It is incumbent upon the City to take action now in order to improve the safety of rental properties when they pass from one lessee to another. In addition, it is important for fire, emergency and police to have access to ownership and lessee information when responding to emergencies and/or complaints within the neighborhoods. For these reasons, the Commission urges that the proposed ordinance be added to the code of Plattsburgh.*

2. **Expected Outcomes:** The creation of a registration, inspection and permitting process as described in Appendix 4 will: increase the safety of the renters in the City of Plattsburgh; help to reduce nuisance properties; improve the general quality of the lives and well-being of the people of the City; and improve the ability of people to enjoy their residences free from the hazards of damaged premises.

3. **Assessment:** The passage of a Registration, Inspection and Permitting of Rental Unit ordinance within three (3) months will be evidence of initial success. A committee (whose membership should include the Building Inspector, Police Chief, Fire Chief, a representative of the Mayor, and several community members (including lessees) appointed at the Mayor’s discretion) should review the resultant outcomes of the adopted ordinance at twelve (12) months past the enactment of the legislation. The assessment can use as measures for success, anecdotal information from the Building Inspector’s Office and Police Department as well as quantitative information regarding the number of properties with building code violations. Recommendations for further amendments to address any shortcomings can be made at that time.

4. **Cost:** In a communication from the City Attorney to the Common Council and then Mayor Jack Stewart to the neighborhood association, dated Nov. 9, 2006, it was estimated by the Building Inspector’s Office that to create and operate a system needed to fully execute the proposed ordinance, it would be necessary to do approximately 2,640 inspections per year and 3,738 hours of work. This would require 3.5 building inspectors alone. The total cost, excluding secretarial support and space would be in the range of $215,000 per year. Based on units and not beds as called for in the proposal, the cost per unit could be supported by a registration fee of approximately $120 per unit for a two-
year period. This amount per unit would change depending on the number of beds in the rental unit once that data is compiled.

The current staff, supported by the general fund within the Building Inspector’s Office, could be reduced since some of its work already includes inspections of rental units. The additional inspectors needed, plus some of the current inspectors working on rental properties, would be supported by the rental registration fee. The remaining staff would continue to be supported by the general fund and would respond to non-rental unit issues as well as normal construction inspections.

5. **Timeline:** The Common Council could adopt this ordinance within the next three (3) months and ask the Building Inspector’s Office to create a schedule and plan for implementation of the ordinance during the next two years. All units would be required to be registered by Jan. 1, 2008, but would be scheduled for inspection during the next two years. Rental Permits could be issued on a temporary basis until a complete round of inspections (two years) could be completed. The ordinance itself, which is a model, could be altered to reflect the realities of the initial implementation.

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**Recommendations 5/6:**

**Proposal to Create a Civil Ordinance for Cost Recovery Resulting from Social Hosting and Stings**

(See Appendix 5 for text of principles for civil or criminal ordinance)

1. **Rationale:** Underage and binge drinking in New York State in the 18 to 20 year group and younger creates many problems. For example, underage drinking cost the citizens of New York $3.2 million in 2005 in terms of the response to the problems caused. This translates into $1,803 per youth for the age group 14 to 20 years. For medical and workdays lost alone, the staggering cost amounts to $1.004 million. Across the nation, about 5,000 youth under the age of 21 die annually from motor vehicle accidents, unintentional injuries and other cases. In 2007, U.S. Surgeon General, Kenneth P. Moritsugu, said in *The Surgeon General’s Call to Action To Prevent and Reduce Underage Drinking* 2007:

   Alcohol is the most widely used substance of abuse among America’s youth. A higher percentage of young people between the ages of 12 and 20 use alcohol than use tobacco or illicit drugs. The physical consequences of underage alcohol use range from medical problems to death by alcohol poisoning, and alcohol plays a significant role in risky sexual behavior, physical and sexual assaults, various types of injuries, and suicide. Underage drinking also creates secondhand effects for others, drinkers and nondrinkers alike, including car crashes from drunk driving, that put every child at risk. Underage alcohol consumption is a major societal problem with enormous health and safety consequences and will demand the Nation’s attention and committed efforts to solve. ...

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and the highest prevalence of alcohol dependence in any age group is among people ages 18 to 20. ...

The latest research demonstrates a compelling need to address alcohol use early, continuously, and in the context of human development using a systematic approach that spans childhood through adolescence into adulthood. Such an approach is described in this Call to Action.

In the document itself, it states:

...The impetus for this Call to Action is the body of research demonstrating the potential negative consequences of underage alcohol use on human maturation, particularly on the brain, which recent studies show continues to develop into a person's twenties (Giedd 2004). Although considerable attention has been focused on the serious consequences of underage drinking and driving, accumulating evidence indicates that the range of adverse consequences is much more extensive than that and should also be comprehensively addressed. For example, the highest prevalence of alcohol dependence in the U.S. population is among 18 to 20 year olds (Grant et al. 2004) who typically began drinking years earlier. ...

The seriousness of the problem on highways and roads prompted the Federal Government to intercede in 1984 with the passage of the National Minimum Drinking Age Act which wielded negative consequences for highway funds for those states that did not raise its legal age for the purchase or public consumption of alcohol to 21 years. While the wisdom of this act can be debated, it led states to increase the legal drinking age to 21 years. Subsequently, mechanisms were introduced at colleges, including SUNY Plattsburgh, to enforce the increased drinking age on campuses.

The National Survey on Drug Use and Health: Underage Alcohol Use Among Full-Time College Students25, indicates that combined data from 2002 to 2005 showed that of the full-time college students in the age range of 18-20, 57.8% used alcohol, 40.1% binged, and 16.6% drank heavily in the past month. So where are they drinking if not on campus? While it cannot be substantiated by quantitative data, in all likelihood these efforts have resulted in pushing the drinking behavior off-campus to bars, using fake identification, and private residences where alcohol has been purchased by those of a legal age. This, in effect, causes serious health and social problems to be pursued behind closed doors or in off-campus establishments.

Establishments, such as taverns and stores that sell alcoholic beverages, are regulated by the Alcohol Beverage Control (ABC) Laws. The rigor and the effectiveness with which these laws are enforced can lead to a reduction in underage drinking in legal establishments or the purchase of alcohol by minors26. However, the purchase of alcohol by those of age for consumption by underage individuals on private properties is a difficult problem to combat. While Penal and ABC Laws prohibit such activities, entry to private residences during parties or social events where problematic drinking may be occurring is protected by the rights of individuals against unlawful entry, even though there is direct knowledge that the laws are being violated. Without sufficient cause to

26 Zero violations of Convenience Stores was found in the last round of sting operations. Private communication received from DWI Coordinator, Molly Lawrence, July 2007.
enter a property, law enforcement agents have limited ability to enforce the laws and at this point, only respond to the resultant behavior that exhibits itself, i.e. destructive and inappropriate behavior in neighborhoods, public urination and vomiting, violence, sexual assault, serious risk to health/life, noise and vandalism. In all likelihood, academic persistence (continuation successfully to graduation), is also affected.

Therefore, because of the seriousness of the health impact on the individuals and the seriousness of the negative outcomes for the City and College in general, the Commission recommends that the City and University police departments join with the State Liquor Authority (SLA) to perform several undercover operations or “stings” annually (which include a combination of house parties as well as taverns) starting as soon as it would be considered effective by leaders of those agencies. If the SLA cannot participate in all stings, it is recommended that they be carried out by the police alone.

Second, while the police may establish probable cause through the use of stings, they cannot continue those operations indefinitely due to constraints created by the cost of the stings and the need to commit the human resources involved in the stings to other areas of policing. This Commission does not wish to overlook the protections to liberty provided by the Bill of Rights and the freedom from unlawful searches. However, to address the costs of responding to citizen complaints about social gatherings where there are obvious issues associated with a social gathering, the City should be able to recoup the cost of emergency response.

Several governmental agencies in New York and elsewhere have pursued the concept of Social Host Responsibility Laws. Seventeen states have party statutes. This approach makes it a civil or a criminal liability for an individual in charge or in control of a property, to allow a party or social gathering to occur where underage drinking may occur. These approaches are part of a matrix of actions that have been taken. For example, Greene County, Patterson; Long Beach; Berkeley, California; San Diego, California; as well as Ventura County in California have passed Social Host

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34 [http://www.alcoholpolicypanel.org/SD%20County%20SH%20Ordinance.htm](http://www.alcoholpolicypanel.org/SD%20County%20SH%20Ordinance.htm)


36 [http://www.publicstrategies.org/east/pdf/SocialHostFactSheetPDF.pdf](http://www.publicstrategies.org/east/pdf/SocialHostFactSheetPDF.pdf)

37 [http://www.venutracountylimits.org/vclmshl_jan06.pdf](http://www.venutracountylimits.org/vclmshl_jan06.pdf)
Responsibility Laws.  The Commission recommends that the City pursue a civil liability approach to recovery of the costs of police and other City responses when these types of parties are held. While this does not directly address the underage and binge drinking issues directly, it does help to compensate the City for its use of resources from the general tax base (See the Ventura County Document in Appendix 5, page 11 as well as the approach used by San Diego under its CAPP or Community Assisted Party Program in reference 26).

2. **Expected Outcomes:** Passage of a civil liability for allowing social gatherings where alcohol is served as well as the use of sting operations should enhance the interests of the City and the College in limiting the opportunity for underage drinking, binge drinking, and therefore the undesirable health, educational, and personal outcomes that result.

3. **Assessment:** The passage of a civil liability ordinance within six (6) months will be evidence of initial success. A committee (whose membership should include the City Attorney, Police Chief, a representative of the Mayor and several community members, including members of the College-Community Partnership, appointed at the Mayor’s discretion) should be impaneled to draft the legislation for the Council to review. A second group can be created to review the resultant outcomes of the adopted ordinance at twelve (12) months past the enactment of the legislation. The assessment can use as measures for success, anecdotal information from the Police Department and Court system. Recommendations for further amendments to address any shortcomings can be made at that time.

4. **Cost:** The cost to perform the sting operations will strain the overtime budgets of the police departments. However, the additional money dedicated to doing this at opportune times may reduce the costs associated with policing the situation over a period of months if the stings reduce the problems associated with private parties where underage drinking occurs. There are no additional costs for the exercise of the Civil Liability Host Ordinance since any action taken under it will be reimbursed by the responsible parties, be they lessees or owners of the property.

5. **Timeline:** Stings operations should take place starting in September 2007 while it is expected that the Common Council should be able to consider the Civil Liability Hosting Ordinance sometime before Jan. 1, 2008.

**Recommendation 7:**
**Improved Sanctions in the Spirit of Restorative Justice**

1. **Rationale:** In recent years the concept of restorative justice has come to be seen as an important ingredient in effective functioning of the enforcement and judicial systems. It provides victims with a visible sign for being violated in some way, and it provides the violator with the understanding that the person violated is in fact a person and not some nameless entity that was transgressed. In many places, the effort to bring restorative justice has been carried out under the concept of Community-Based Problem-Solving.
Criminal Justice. It is an initiative of the Bureau for Justice Assistance\textsuperscript{36}. In this approach, community members, social service organizations such as those connected to alcohol or drug rehabilitation, probation, pay-back service to the community offended, police, district attorneys, and judges work together to educate violator’s about the impact of their crime.

How do they do this? They do this through either a diversion system for minor offenders, which shunts them off to the types of programs that will be noted or it uses an alternative sentencing approach supported by the weight of the judiciary. It is the latter approach that the Commission recommends.

Different forms of sentencing could include the assignment of individuals to educational and intervention programs, pay-back service to the community, counseling, and impact panels in addition to classical sentencing backed by the power of the judiciary. This would mean that the violator would work to pay-back the community he or she violated through direct service to them while at the same time other programs such as educational programming, impact panels, self-evaluation mechanisms and counseling would provide violators a chance to change. This approach makes justice visible to the community\textsuperscript{37}.

This approach seeks to engage residents in the design of the pay-back service, impact panels and also through their social service agencies and the college. Engagement builds the necessary basis for relationship building and provides the violators with the face of a real person who could have been the victim of their violation.

\textit{The Commission therefore recommends that the Mayor and President of the College appoint a four-person project team to:}

- \textit{Review data and information on restorative justice approaches through alternative sentencing and establish a need statement for it}
- \textit{Develop benchmarks for the number and type of violations that may be appropriately handled using alternative sentences}
- \textit{Establish objectives for the types of desired outcomes that alternative sentencing should accomplish}
- \textit{Explore possible partners who may provide alternative venues and programs as well as pay-back service opportunities for the violators}
- \textit{Examine grant-funding opportunities for start-up costs}
- \textit{Suggest a timeline and costs for programs that currently don’t exist but might be desirable for sentencing options}

\textit{The Commission further recommends that the Project Team use the Community-College Partnership to accomplish some of the study/proposal objectives. The outcomes of the study should be presented to the Mayor, the President and the Partnership in three to six months for their action and or communication and assignment to the appropriate individuals.}

\textsuperscript{36} http://www.ojp.usdoj.gov/BJA/
\textsuperscript{37} http://www.courtinnovation.org/
2. **Expected Outcomes:** Other communities have pursued[^38] this type of approach with high levels of success. For example, in Fort Collins, Colorado, individuals may go through what is called a *Party Partners* program when they violate the noise ordinance (although in this case the program is availed through a diversion approach rather than a sentencing option, but the end result is the same). San Diego has used a community-based approach with alternative options, which its feels is very effectively in addressing its beach party[^39] problems.

3. **Assessment:** After the optional sanctions have been in place for twelve (12) months, the Mayor and the President should call on the original four-person panel to review the progress made by using the approach.

4. **Cost:** Some seed money ($5,000) may be needed to start some of the alternative sanction programs. The support of the Partnership in exploring funding opportunities should be pursued since this approach is innovative and could be a model for other college towns in the State who face the same problems. Exploration of subcontracting the supervision of assigned *pay-back* service to College’s personnel by the County Probation Department for a minimal fee should be examined as a means of reducing the cost of it to the City or the County. Alternatively, it could become one of the responsibilities of the Community Coordinator position described below.

5. **Timeline:** The review, partner identification, collaboration building, process development, grant development, and program conceptualization along with the report described above should be completed by the four-person Project Team by January 31, 2008. Some aspects of the alternative sanctions may be in place sooner depending on the difficulty and cost of the implementation.

**Recommendation 8:**

**Proposal to Lower the Threshold for College to Judicially Pursue off-Campus Conduct Issues under College Policies**

1. **Rationale:** The term *Nexus* refers to the ability of the College to discipline a student on campus for crimes or violations of the campus’ Student Code of Conduct committed off-campus. For the charge on campus to be tenable, the crime or violation of the campus Student Code of Conduct must be construed to impact the College’s mission. At present, the threshold at which the College pursues off-campus conduct issues is at the felony level, e.g. a student arrested for sale of drugs.

   *This Commission recommends that the College lower that threshold to the misdemeanor level, e.g. criminal mischief perpetrated by a student. In lowering the threshold for the College to pursue more off-campus conduct issues, one would hope that students in general would be more responsible and considerate of their neighbors.*

[^38]: See [http://www.ocssral.colostate.edu/clc/programs.asp](http://www.ocssral.colostate.edu/clc/programs.asp) for a description of the Party Partners Program for individuals violating the noise ordinance in Fort Collins, home of Colorado State University.

In addition, it should foster awareness of the more civic and civil-centered ideals.

Expected Outcomes: There would be a decrease in the number of students charged off-campus with misdemeanors (and possibly violations) related to quality of life issues. The Commission, based on the experience of those dealing with student discipline, would project a decrease of three to five percent in the misdemeanors and violations committed by the college students.

2. Assessment: A committee chaired by the Dean of Students, Steve Matthews, could evaluate the impact of this action based on information provided by the chiefs of the City and University Police departments. The evaluation should be quantitative as well as qualitative. Quantitatively, the total number of misdemeanors and violations committed by college students for the period Aug. 1, 2006, to May 31, 2007, could be used as a benchmark and compared to a similar number for 2007-2008. A committee report for the Vice President for Student Affairs and the President of the College would be evaluated in the summer of 2008 to determine if the practice was effective within the limits of evaluation of the data.

3. Cost: Two offices at the College that would be most directly impacted by this resolution would be University Police and the Dean of Students. University Police would be responsible for bringing each case forward while the Office of the Dean of Students would be responsible for hearing each case.

   Additionally, the College President would have to approve the lowering of the threshold while the Dean of Students, University Police and the Vice President for Student Affairs would have to consult on each instance of off-campus behavior as to whether or not to proceed. The cost involved would be in terms of time of these offices and individuals involved especially for the Dean of Students and for University Police. In 2006, there were approximately 360 cases involving alcohol or drugs. If the number of cases increased to 460 with the addition of about 100 test cases, and if each case averages eight-hours of work time, the cost to the College would be approximately $16,000 in salary based on 0.4 FTE and an average salary of $40,000.

4. Timeline: This recommendation should be implemented for the 2007-08 academic year beginning in August 2007.

Recommendation 9:
Create Structure for Athletic Team Accountability That is Similar to Other Club and Group as well as Fraternity/Sorority Guidelines

1. Rationale: At present, student clubs and organizations including fraternities and sororities are held accountable for their conduct as groups both on and off-campus through the campus disciplinary system. This is in addition to individual students being accountable for their own conduct. Thus, should a student club or organization be found accountable following a hearing, then the club or organization is liable for a range of sanctions that may include reprimand up to and including permanent suspension of the
club or organization. At this time, the process that takes place through the campus discipline system does not apply to athletic teams. By including these teams in the discipline system for clubs and organizations, one would hope they would be more cognizant of their behavior off-campus knowing it could impact their team and teammates.

The College President would have to approve this approach while the Dean of Students, University Police and the Vice President for Student Affairs would have to consult on each instance of off-campus behavior as to whether or not to bring judicial discipline. Additionally, consultation would need to occur with both the Athletic Director and the appropriate coach of the team involved. The Commission recommends that the College Code for Clubs and Organizations be revised appropriately to include athletic teams.

_The Commission recommends that the College include athletic teams under the code of conduct for clubs and organizations._

2. **Expected Outcomes:** By holding athletic teams as a group, accountable for their collective behavior, the incidence of off-campus “athletic team house” behavior whose character is less than that of the best traditions of the College should be reduced. While the campus does not provide off-campus housing for teams, it has been known that in some cases, just as with fraternities and sororities, individuals who participate in the same sport activity collaborate on the rental of units in a particular house. This, sometimes, leads to undesirable outcomes.

3. **Assessment:** The Vice President for Student Affairs should establish a committee to review the current code of conduct for clubs and organizations for the appropriate changes necessary to achieve the intent of this recommendation. Following the current approval process for changes in the code, a report should be created as determined by the Vice President for Student Affairs to assess the impact of the changes twelve months after implementation.

4. **Cost:** The responsibility for doing this would fall on the Dean of Students and University Police. University Police would be responsible for bringing each case forward while the Dean of Students would be responsible for hearing each case. Changes to the Code would involve minimal time and investigation of infractions would be included within the current work of the appropriate offices.

5. **Timeline:** This recommendation should be accomplished within one month but if it is projected is to take longer, a notice to all athletic teams should be given that the proposal is being considered and or will be implemented and that all athletic teams will be held accountable as it is described for 2007-2008.
Recommendation 10:  
Create Position of Alcohol and Other Drug Coordinator for SUNY Plattsburgh

1. **Rationale:** The creation of the Alcohol and Other Drug (AOD) Coordinator position at SUNY Plattsburgh would focus an individual on the underlying causes as well as appropriate responses to the many of the off-campus behavioral problems. According to the SUNY System Administration Office of Alcohol and Other Drug Prevention, the consumption of alcohol and other mind altering drugs can present a significant threat to the safety and well being of SUNY students, staff, faculty, and other members of academic communities. Intoxication increases the likelihood of injury and the equally threatening problem of violence. At the national level, an estimated 43% of undergraduates are high-risk binge drinkers, 78% consume alcohol on a weekly basis and 56% of underage students consume alcohol. Since 2001, SUNY adopted a comprehensive campus environmental management approach to address the issue of high-risk student drinking. The components of a comprehensive campus environmental management approach, according to Alcohol and Other Drug (AOD) experts include: assessment, education, social norming strategies, early intervention and treatment, alcohol-free social and recreational activities, policy development and revision, enforcement, and community/campus coalitions.

According to James Schaefer, Ph.D., Director, Alcohol and Other Drug Prevention at Systems Administration, a major impediment to implementation of campus AOD prevention services is the lack of coordinating personnel. Therefore, in order to expand our comprehensive approach and adequately address the essential elements of the plan, an AOD Coordinator is imperative.

The Commission therefore recommends that the College consider creating a position of AOD Coordinator for two (2) years to determine its efficacy.

2. **Expected Outcomes:**
   a. Development of educational programming for all students.
   b. Development of educational programming targeting high-risk groups (athletes, fraternities, sororities, and freshmen) that covers the fundamentals on alcohol and drugs, cross-curriculum infusion, peer education, and evidence-based educational/intervention products.
   c. Development of an early intervention and treatment programming utilizing motivational counseling and other best practices.
   d. Continued development of social norming.
   e. Provide support for community/campus coalition activities.
   f. Decrease binge drinking rates, underage drinking, and negative physical and emotional outcomes secondary to alcohol and other drug use.
   g. Decrease class absenteeism secondary to alcohol and other drug use.
   h. Provide an environment and culture that fosters academic success and increases graduation rates.
   i. Development of an assessment program to determine success rates.

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40 Private communication from Dr. Kathleen Camelo, Director of the Center for Student Health and Psychological Services
3. **Assessment:** To determine the success of the implementation of the position, the individual would compare quantitative changes in the student body using:
   a. The CORE Survey or NCHA (National College Health Assessment) Instrument to assess student use of alcohol and other drugs.
   b. Review relevant data such as alcohol violations, emergency alcohol transports to determine changes from the 2006-2007.
   c. Monitor student evaluations of educational programs.
   d. Monitor utilization of alcohol-free activities.
   e. Track number of clients counseled for alcohol and substance abuse.

At the end of two (2) years, the success of the position could be evaluated using the data above (although culture change will take longer than two (2) years and the data should be evaluated in that light) as well as other qualitative avenues to determine if the position should be made permanent.

4. **Cost:** The cost involved for such a position would be approximately $35,000 plus fringe benefits on an annual basis. Additionally, there would be operating expenses of approximately $10,000 including survey instruments, programming materials, and social-norming products.

5. **Timeline:** This recommendation could be implemented for the 2007-08 academic year with the search for the position beginning in fall 2007 pending approval of the President.

**Recommendation 11:**

**Create Position of Campus-City Coordinator for SUNY Plattsburgh and the City**

1. **Rationale:** At the present time, there is no one at the College who has the responsibility per se, for acting as liaison with the community. The Office of the Vice President for Student Affairs “defacto” serves this role, but is not in a position to provide the hands-on effort needed to deal with the various issues. Many cities and colleges have created positions to coordinate all of the activities related to the concerns and problems that are created by off-campus interactions: for example, see Fort Collins-Colorado State University⁴¹; SUNY Geneseo⁴²; SUNY Albany⁴³; SUNY Buffalo⁴⁴; University of Florida, Gainesville⁴⁵; and, the University of Vermont⁴⁶. The solution for SUNY Plattsburgh would be to appoint a Campus-City Coordinator to act as a liaison between the City and the College and to deal with the concerns on a day-to-day basis in myriad of ways both large and small. Someone needs to keep abreast of the literature, have a grip on what is possible for both the College and City to do, and act as a resource as concerns and new initiatives arise.

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⁴¹ See for example: [http://fcgov.com/neighborhoodservices/clc/](http://fcgov.com/neighborhoodservices/clc/)
⁴³ [http://police.albany.edu/Member2.asp?LName=Gebhardt&FName=Thomas](http://police.albany.edu/Member2.asp?LName=Gebhardt&FName=Thomas)
⁴⁴ [http://www.student-affairs.buffalo.edu/offcampus/goodneighbor.shtml](http://www.student-affairs.buffalo.edu/offcampus/goodneighbor.shtml)
⁴⁵ [http://www.dso.ufl.edu/offcampus/](http://www.dso.ufl.edu/offcampus/)
Therefore, because of the need to better accommodate the necessary work and because of the improvements seen at other colleges in terms of town/gown relationships, the Commission recommends that they pursue the creation of this position on a temporary basis for two (2) years.

2. **Expected Outcomes:** Implementation of this position would enable a single person to:
   a. Facilitate the work of the student-led Standing Committee on Campus/Community Issues (See Recommendation 12).
   b. Develop a community-wide mission statement and expectations to be adopted by the City and College.
   c. Better accommodate the additional work related to college-community relations.
   d. Interact with community members and off-campus students to develop a more positive relationship through use of such programs as *Meet Your Neighbors*\(^{47}\) or the *Great Sofa Flea Market*.
   e. Institute a campus hot-line for off-campus concerns and respond to the same.
   f. Create and distribute educational and awareness materials for off-campus students\(^{48}\).
   g. Create a grant program to allow student groups to design “late-night” downtown activities that will provide alternatives to socializing with alcohol.
   h. Assist in development of and participation in alternate sanctions for petty criminal offenses in the community such as *pay-back* service, party partnership, impact panels, etc. in order to create a restorative justice approach to quality of life violations.
   i. Track statistics related to off-campus issues and activities. For example, develop an assessment plan to track student satisfaction with and behavioral changes associated with current and future efforts.
   j. Create an off-campus best practices reference base.
   k. Facilitate contact by the Mayor of Plattsburgh with the parents of those students arrested off-campus.
   l. Facilitate meetings between the Dean of Students or the Vice President for Student Affairs with residences who register complaints by neighbors.
   m. Create a *Student-Neighbor Quality of Life Watch*.
   n. Assist in the creation of a citizenship component for the *First-Year and Freshmen Seminar Programs*.
   o. Develop a “survival skills” and neighborhood expectation programs for students moving out of the residence halls.
   p. Develop peer-education network for off-campus issues such as that developed at Berkeley\(^{49}\).

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\(^{47}\) Program executed by the fraternity brothers of AXP for the last several years.


\(^{49}\) See *Changing the Culture of Student Behavior in Berkeley: A Cooperative Effort* – Co-Presented by John Cummins, Associate Chancellor, UC Berkeley; Irene Hegarty, Director of Community Relations, UC Berkeley; Jim Hynes, Assistant City Manager, City of Berkeley; Nicole Mann, President, Panhelllenic Association, UC Berkeley at [http://conferences.dce.ufl.edu/bucr/default.aspx?page=168](http://conferences.dce.ufl.edu/bucr/default.aspx?page=168)
q. Partner with various academic departments to foster off-campus research projects and courses that will enhance or provide additional knowledge of campus-community relations.

r. Create and work with a student-led campus-community partnership to address issues from within.

s. Create a system of awards and incentive programs for positive student behaviors and initiatives by both the City and the College.

t. Support an aggressive off-campus social norming campaign targeted at negative community behaviors in conjunction with the AOD Coordinator, Health and Wellness Educator and the College-Community Partnership.

3. **Assessment:** The Office of Vice President for Student Affairs should establish a committee two (2) years from the creation of the position to determine whether the position should be made permanent.

4. **Cost:** The cost would involve the cost of a salary either full or part time as well as operating expenses. A staff assistant would cost $35,000 full time or $17,500 half time plus fringe benefits in each case. An operating budget of $10,000 would be a minimum.

5. **Timeline:** The position should be created and filled by the end of the 2007-2008 academic year.

**Recommendation 12:**

**Create a Standing Committee on Campus/Community Relationships**

1. **Rationale:** Change efforts should be primarily student-driven and must include community partners to allow students to understand the scope and severity of the problems associated with the Center City and Downtown areas. Students are the catalysts to creating change. They have largely been left out of the conversations about addressing college and community issues by the Commission because of logistical issues and the time of year.

   *Therefore, the Commission recommends that the College establish a committee as described in the previous paragraph that will participate in the development of off-campus initiatives.* Since change is not instantaneous, the City and College must plan to have this committee in place for more than five (5) years in order to see significant changes in the culture.

2. **Expected Outcome:** There is a common leadership saying, “People support what they help create.” If students are asked to assist in the development of solutions to the problems facing the City of Plattsburgh, this theory suggests that they will take ownership of the solutions and encourage their peers to do the same. Simply stated, students **must** be included in the development of these solutions to affect long-term and significant change.
3 **Assessment:** Two (2) years after the committee is established, the Vice President for Student Affairs could establish a group to review the programs that it has sponsored as well as the perceived impact it has had on changing the culture on off-campus life.

4 **Cost:** The committee will require little funding. However, an operating budget suggested in the range of $2,500 would be required to begin programs or activities it sponsors. Additional funds to support programs could be solicited on an item-by-item basis from the Student Association Activities Board or College Auxiliary Services (CAS) as appropriate.

5 **Timeline:** The committee should be created in fall 2007 to allow it to work closely with the development of activities called for in this document. Initially, and until an off-campus coordinator is hired, it will need to be facilitated by a staff or faculty member.

**Recommendation 13:**

**Create Plattsburgh Neighborhood Associations**

1. **Rationale:** As noted above, the key to creating cultural change is the need to start with conversations: get the neighbors out to meet each other and to build relationships. Doing so will forge new ideas about old problems and support the pride and enjoyment of the community. In addition, in neighborhoods where college students live side-by-side with residents, the personal interaction will help to create an atmosphere of shared living.

One exciting example of successful creation of neighborhood associations is found in Oswego\(^{50}\) although several other cities in New York also have associations such as Rochester\(^{51}\), Albany (Pine Hill section) and Syracuse\(^{52}\). The purpose of the associations depends on the directions that the members want to take. They may be heavily involved in zoning/planning issues, planning and executing community activities, or concerned about the rebirth of their neighborhoods.

Because of the potential for enhancements to the quality of life felt by the residents of Plattsburgh, the Commission recommends that the City investigate the development of neighborhood associations.

2. **Expected Outcomes:** Neighborhood associations would provide:
   a. An avenue for conversations to begin about what the residents in a particular area of the City want their neighborhood to be.
   b. A place where community activities for the enjoyment of all could be planned and executed.
   c. A place where local government officials could interact with residents in an organized format.

\(^{50}\)[http://www.ci.oswego.or.us/plan/Neighborhoods/](http://www.ci.oswego.or.us/plan/Neighborhoods/)

\(^{51}\)[http://www.uppermonroeavenue.org/#top](http://www.uppermonroeavenue.org/#top)

\(^{52}\)[http://govt-comm.syr.edu/community/wna.html](http://govt-comm.syr.edu/community/wna.html)
d. A group that could secure grant funding from appropriate sources for rebirth or community enhancements.

e. An active avenue for the people of Plattsburgh to provide input on new planning and zoning proposals.

3. **Assessment:** It is difficult for the Commission to suggest a format to assess the success of neighborhood associations since the success will be based on what the members want. The individual success can be measured only by comparison of the achievements of the group compared to their stated goals.

4. **Cost:** Beginning the development of neighborhood associations would not be cost intensive, but would take the leadership, commitment and effort of numerous people in the different sections of the City. It was suggested that the optimum way for the associations to begin would be with the leadership in each ward of the City Counselor. Time would be needed to get each association started and sustained during the initial stages of existence. Perhaps the City could provide a small amount of seed money ($5,000) that associations (ones that formalize their existence by establishing a simple set of guiding principles) could compete for projects or events to be held in their area of the City.

5. **Timeline:** The City currently faces many challenges which demand the time of the Mayor and City staff. They could not take on the enormous load of developing associations. However, associations could be fostered through the work of volunteers identified by the community and or the City Counselors, and commissioned by the Mayor, to work on developing viable associations. The process of identifying individuals could take place over the next six (6) months with possible development of the associations in the following six (6) months.

**Recommendation 14:**
**Petition for Moratorium on Issuance of Licenses in the Downtown Area**

1. **Rationale:** Currently, the issuance of licenses to vend alcohol is controlled by the New York State Liquor Authority and it is not within the authority of the City to control the density of taverns in the downtown area. In addition, it does not qualify under the population guidelines since the current population is under 20,000. The density of the bars in the downtown area shown in the diagram below by
the pushpins. As can be seen, there is a neighborhood between the location of bars in the downtown area and the College. Inevitably, when some students traverse the area between the College and the downtown area after having become intoxicated, inappropriate behaviors negatively impact the quality of life for those neighborhoods. To prevent this problem from growing, the Commission recommends that the Mayor, in union with the Common Council and SUNY Plattsburgh, petition the State Liquor Authority to cease issuing new licenses for classes of establishments that only serve alcohol and the transfer of such licenses in the area enclosed by Oak Street, Catherine Street, Broad Street, Peru Street, Bridge Street, City Hall Place and Miller Street. To submit this petition, quantitative data along with substantial reasons need to be developed.

2. **Expected Outcomes:** The result of a moratorium on the issuance of tavern-type licenses in the downtown area would begin to limit the number of places that drinking can occur.

3. **Assessment:** An ongoing study needs to be made should the moratorium be granted. This ongoing study would need to quantify improvements in the indicators related to inappropriate behavior that is directly attributable to the bars.

4. **Cost:** Minimal cost is associated with this recommendation

5. **Timeline:** The request should be made by January 31, 2008.

**Recommendations 15-19:**

*General Recommendations related to the Building Inspector’s Office*

These recommendations are a result of discussions that occurred over the course of the Commission’s meetings. Since many of them are of a logistic nature or are ideas that were not developed to the same level as the preceding 14, they appear here in simple format. The Commission urges the Mayor and or City Council to adopt these recommendations.

- **Since zero violations or misdemeanors have been heard in City Court during calendar years 2005 and 2006, a review of the operation of the Building Inspector’s Office with respect to the use of warnings versus the direct issuance of appearance tickets by building inspectors should be made. It is the opinion of the Commission that more violations should be written to create a culture of enforcement.**

- **While the Office responds to complaints, it needs to become more proactive in policing violations of the codes in the areas impacted by high densities of bars and rental housing. This should include a methodical and regular patrol of neighborhoods impacted by problematic behaviors.**

- **The Building Inspector’s Office should receive continued support and staff development from the City Attorney as has recently occurred. This is a great aid in cases where legal representation is needed or more in-depth knowledge to adequately represent the City.**
• The Mayor should request that the Building Inspector’s Office use its current database software to develop a monthly report of violations by address, which should be made available through the City’s website and should be delivered to the Mayor and City Council members in hard copy form once a month. This approach would allow nuisance properties to more readily be identified and the problems remedied.

**Recommendations 20-26:**

**General Recommendations related to the Enforcement and Accountability**

As mentioned in the previous section, these recommendations appear in simple format for the aforementioned reasons. *The Commission urges the Mayor and/or City Council to adopt these recommendations.*

• The police departments of the City and College use a zero tolerance policy with respect to violations of the quality of life ordinances, i.e., for example those relating to noise, possession of alcohol under the age of 21, open container, possession of marijuana, disorderly conduct in all of its forms, noise, and vandalism.

• The police departments of the City and College provide additional information in their Accusatory Instruments about the situation under which the violation occurred. This policy will enable the City Court to apply more appropriate sentences to those guilty of egregious conduct in the commitment of their violations. It is understood that this additional information will be read during arraignment proceedings.

• The police departments of the City and College provide REPEAT information to City Court for offenders and/or locations when it is pertinent to the violation.

• The City Police Department increase foot/bicycle patrols at the expense of cruiser assignments.

• The police departments of the City and College report all convictions that involve alcohol to the State Liquor Authority when an association can be directly linked to a licensed establishment.

• An experiment with four surveillance cameras within the Downtown area be undertaken to determine their efficacy in improving enforcement of quality of life violations. Depending on the outcomes of the experiment, additional cameras may be warranted.

• The City Judiciary applies the full amount of fines under the mandatory clauses in city ordinances. While the Commission respects the difficulties faced in collecting non-traffic violation fines as well as the need to dispense just sentences, the Commission believes that application of the full amount of the fines allowed would serve the cause of deterring future violations more than suspending a portion of the fine in exchange for good behavior for a specified amount of time.
Recommendations 27-38: General Recommendations

As in the previous section, these recommendations appear in simple format for the aforementioned reasons. The Commission recommends that:

- The services of the off-campus housing list are withheld to those landlords who have any rental properties that have not been inspected in the past year. In current practice, landlords who wish to have their vacancies listed on the College’s off-campus housing list must have their facilities inspected and approved annually for health and safety. This is a more stringent requirement than that of the City of Plattsburgh, which only requires an inspection every three (3) years.

- Cross-training of police, fire and public works employees in the area of code violations continue and that relevant sections of the City code be changed to allow these employees to legally issue appearance tickets for all relevant sections of the City codes.

- The Fire Department assist the Building Inspector’s Office in conducting inspections of all rental properties after the first inspection of a new structure. This approach will expand the ability to inspect rental properties for code violations on a more frequent basis and increase the safety of the people who reside in them.

- Increase the use of Cardinal Cash in the Downtown area to draw students to businesses other than bars. This would fall to the College Auxiliary Services to approach businesses to work out the arrangements for its use.

- The City use its current curfew ordinance and change it so as to appropriately address problems associated with youth in the Downtown and other areas of the City after a reasonable time of night.

- Hold classes and meetings (such as for clubs and organizations) in appropriate downtown locations such as the old City Hall Courtroom. This will draw students to the Downtown area for more than socializing in taverns and help to change the image of downtown.

- Increase the number of internships held by SUNY Plattsburgh students in the downtown offices of the City. The internship program offers the City government a chance to engage up and coming talent in their operations and can increase the work output of offices with little cost. For the students, it gives them a chance to learn how various governmental offices operate and how they serve the people. Finally, it would contribute to the image changing efforts that this Commission feels needs to be fostered in the minds of the students.

- A “Hospitality Zone” is created in the Downtown area. This is a new approach to creating hospitable areas for tourists and others in areas where there is a high concentration of social activities. It fosters safe environments through the
The success of the zone means the success of all of the businesses in the zone. The footnotes provide a good introduction to the concept. To achieve this goal, we recommend that the Mayor call together a group of concerned citizens and business owners to explore the idea and determine how to proceed.

- **An administrative group**, which would be chaired by the Mayor and composed of appropriate individuals such as the Chiefs of both police forces, Building Inspector, Dean of Students, Campus-Community Coordinator, Downtown Business Owners, Residents and others as he or she feels appropriate to discuss issues associated with problematic behavior and problematic properties. This group should meet on a regular basis.

- **The College should pursue the use of public service announcements created within the Communication Department to help foster appropriate behavior.**

- **A landlords’ association be fostered by the City and College in order to work constructively with the landlords in an attempt to improve problems that have been identified and associated with rental properties.**

**Recommendation 39: Progress Reports**

The Commission understands that progress to change a culture takes a great deal of time. It also understands the temporal limitations associated with administrative positions, as well as elected positions. The Commission therefore urges the Mayor and the President of SUNY Plattsburgh to meet jointly with this Commission in four months, 12 months and 24 months to provide progress oral reports and descriptions of the disposition of the recommendations contained herein or other developments as may occur that are related to the issues discussed by the Commission in its charge.

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Appendix 1 - Changes to Noise Ordinance Chapter 206
§ 206

NOISE

Draft 7/16/2007

Chapter 206

NOISE

§ 206-1. Definitions.

§ 206-2. Unnecessary noise unlawful.

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

§ 206-4. Exemptions.

§ 206-5. Certain persons responsible for violations.

§ 206-6. Penalties for offenses.

§ 206-7. Repealer. Enforcement & Administration


§ 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]
§ 206-3  NOISE  § 206-3

(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.
I. The operation of any tools or equipment used in construction, drilling, excavation or demolition work between the hours of 8:00 pm and 7:00 am the following day, except the provisions of this section shall not apply to emergency work.

§ 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 7:00 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.

20604

2/28/2005
§ 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.

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

d) 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.
   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
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
Housing, Property Maintenance and Nuisance Ordinance Proposal for the City of Plattsburgh

DRAFT 6/18/07

May 2007

Preamble

General Standards

I. Inspections of Dwellings
II. Enforcement
III. Public Nuisance
IV. Civil Remedies for Property and Building Nuisances
V. Civil Remedies
VI. Judgment Awarding Permanent Injunction
VII. Preliminary Injunction
VIII. Temporary Restraining Order – Defendant’s Remedies
IX. Responsibilities of Owners
X. Rights & Responsibilities of Occupants
XI. Minimum Exterior and Interior Requirements
XII. Vacant Property
XIII. Garbage and Sanitation
XIV. Designation of Unfit Dwellings
XV. Penalties
XVI. Conflict of Ordinances
XVII. Judgment Awarding Permanent Injunction
XVIII. Preliminary Injunction
XIX. Temporary Restraining Order—Defendant’s Remedies
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.

XV. 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 conducting, 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.
VIII. 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 undertakes 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 be 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 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.
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 from 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 harborages 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 requires 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 placed 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 of 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 for 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 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 ENTERTAIMENT 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 walls 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-OPEARATED 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 intersect 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
bed-room, 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.

Occumant - 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 STRIPPING - A lot or land or part thereof used for the purpose of extracting stone; sand, grave) or soil for sale as an industrial operation and exclusive a 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 a 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 opaque 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 filled 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 curtailing 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 their 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; and issue 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

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 if 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 rooves 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. 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 Proposed occupants of rental housing units shall have the right to inspect the certificate of occupancy Rental Permit of for 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 of receipt of a request of
registration by the owner, agent, or on complaint from the occupant. 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 in 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 _Chapter 178_. 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
Appendix 5 - Social Host Civil Liability Ordinance
The intent of this report is to provide useful information to municipal governments, private institutions and community coalitions who are formulating responses to the many problems caused by home parties involving underage drinking.

Using this Publication
This is public information and is meant to be shared. Copy and distribute this Policy Briefing as appropriate. For additional copies please visit www.venturacountylimits.org

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Introduction

This is the third in a series of reports associated with Ventura County Limits, a Community Partnership for Responsible Alcohol Policies and Practices. Two previous reports considered issues related to underage and binge drinking in Ventura County, and the circumstances of drinking for young adults in Ventura County prior to their arrest for impaired driving (please see www.VenturaCountyLimits.org). Both of these publications suggested that home parties are settings in Ventura County where excessive alcohol consumption among underage and young adult drinkers can lead to dangerous—even deadly—consequences, and pointed to the need for new community prevention tools.

“Nearly three in ten (28.6%) of those 25 and younger that binge drink report last doing so in their own homes, and 45.2% report last binge drinking at someone else’s home. These data point to “house parties” as settings for binge drinking among young adults.”

—Underage and Binge Drinking: Selected Findings from a Telephone Survey of Ventura County Residents (2005)

As part of its county-wide initiative to reduce underage and dangerous drinking, including the serious and persistent problems associated with home drinking parties, the Ventura County Behavioral Health Department, in collaboration with the Center for the Study of Law and Enforcement Policy (CSLEP) of the Pacific Institute for Research and Evaluation (PIRE), has developed this publication to aid local governments and other community agencies in the formulation of effective prevention policies.

The model ordinance and commentary were designed to address communities of diverse settings and needs. They also take into consideration various concerns of municipalities with respect to effectively deterring loud, unruly or dangerous parties in private settings, using clear explanations of the different types of Social Host Liability and presenting options for imposing fees and recovering costs associated with law enforcement, fire, or other emergency response services.

In developing this publication the authors and sponsors have been encouraged by the intense concern of parents, community coalitions, law enforcement personnel and elected officials, all of whom have been calling out for better strategies to reduce the many social, health and public safety consequences of underage drinking parties. We hope the words on the following pages lead to community action — resulting in new social realities that improve the quality of life and sense of safety for everyone in Ventura County.
The Social and Legal Context

The National Academies Institute of Medicine's seminal report entitled Reducing Underage Drinking: a Collective Responsibility, released in 2003, documents the wide ranging and devastating consequences of adolescent and young adult consumption of alcoholic beverages. Estimating the annual social cost of underage drinking to be at least $53 billion, Reducing Underage Drinking urges states and localities to enact a comprehensive set of strategies to reduce underage alcohol consumption. These strategies include strengthening social host liability laws to deter underage drinking parties and other gatherings.

Social host liability refers to laws that hold non-commercial individuals responsible for underage drinking events on property they own, lease, or otherwise control. Whereas laws prohibiting furnishing alcoholic beverages to underage persons target providing alcoholic beverages to underage persons, social host laws target providing the venue where underage drinking takes place.

A Practical Guide to Preventing and Dispersing Underage Drinking Parties (PIRE, undated) articulates why regulating underage drinking parties and other gatherings is an important priority and why social host liability laws should be considered an essential law enforcement strategy for deterring these gatherings:

Many people dismiss underage drinking as a normal “rite of passage” in adolescence. However, it is important to remember that alcohol is one of the most common contributors to injury, death, and criminal behavior among youth (US Department of Health And Human Services, 1992). Underage alcohol use can have immediate and potentially tragic consequences as well as long-range harmful consequences, such as increased risk for chronic alcohol addiction (Grant and Dawson, 1997). Enforcement activities to limit youth access to alcohol are critical to reducing underage drinking and its often tragic consequences ...

One common way that underage drinkers gain access to alcohol is at parties. These parties are commonly large gatherings of young people in a home ..., in an outdoor area (like a beach or a park), or in some other venue (like a warehouse rented for the purpose). These parties can be particularly problematic because of the number of drinkers involved and the large quantities of alcohol consumed. Reports of alcohol poisonings, traffic crashes, property damage, community disturbance, violence, and sexual assault are all too common as a result of these parties.

Teen parties are a primary avenue for underage drinking for high school and college students — and of high consumption of alcohol and binge drinking. Mayer, Forster, Murray, and Wagenaar (1998) found that the most common setting for drinking among high school seniors was someone else’s home. High consumption (five or more drinks) is also associated with drinking in larger groups. The
authors conclude that interventions that modify the environments in which adolescents find themselves have an impact on alcohol consumption levels. “Policies aimed at increasing the liability of adults who provide alcohol to or drink with minors may help to reduce underage drinking.” (Mayer et al: 214).

Approximately 46,200 of Ventura County residents are in high school grades nine through twelve, living in widely different residential, rural farming, canyon, beach, and coastal communities. Communities, regardless of type, report that many parents have a high tolerance for teen parties, allowing them to occur on their property often without any supervision. Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices (PIRE, 1999) observes: “This tolerance apparently stems from three misconceptions or beliefs: (1) alcohol, particularly beer, is a relatively harmless drug compared to illegal drugs, and its consumption is part of the passage to adulthood; (2) permitting consumption in a residential setting is safer than having it occur in open areas, where there is a higher risk of problems; and (3) teen drinking is inevitable, and it is safer if it occurs in a controlled, residential setting.”

Ventura County has three community colleges in Moorpark, Oxnard, and Ventura; a new four-year university Cal State Channel Islands in the Camarillo area; and California Lutheran University, a private institution in Thousand Oaks. Clapp, Shillington, and Segars (2000) found that for college students, parties were among the most common occasions for socializing and were the settings most associated with heavy drinking. Similarly, Jones-Webb, Toomey, Minier, Wagensaat, Wolfson, and Poon (1997) found that a common source of alcohol for college drinkers was parties— including house parties, outdoor parties, or fraternity parties. Respondents to youth focus groups saw little risk of law enforcement intervention at underage drinking parties, indicating that expectations about enforcement of underage drinking laws were low.

Community tolerance is compounded by the legal obstacles to law enforcement agencies in deterring teen parties and college gatherings. (PIRE, 1999: 27.) California law prohibits both furnishing alcohol to underage persons and youth possession on public property. On the other hand, state law does not prohibit youth possession on private property, and state law does not prohibit youth consumption anywhere. Law enforcement “detecting an underage party may not have legal grounds to enter the premises, be unable to confiscate the alcohol, trace its original purchaser, or hold the adult homeowner, landlord, or renter responsible for allowing the party on the premises.” (PIRE, 1999: 27.)

Three Different Types of Social Host Liability

Depending on the state and local jurisdiction, the hosting of a party on private property at which an underage drinker becomes intoxicated could result in three distinct types of liability against the social host: social host criminal liability, social host civil liability, and recovery of response costs. Each type of liability should be viewed as a separate legal strategy for deterring underage drinking parties.

State Social Host Criminal Statutes

Social host criminal liability involves a state statutory violation, enforced by the state through criminal prosecution and leading to criminal sanctions such as fines or imprisonment. As of January 1, 2005, nineteen states have enacted social host criminal liability statutes.  

There are two types of state social host criminal statutes:

- Specific Host Party Laws. These statutes, often called "open house party" laws, explicitly address parties or other gatherings attended by underage persons on private property. As of January 1, 2005, there were six jurisdictions with explicit house party laws.

- General Laws Addressing Adult Permitting/Allowing Underage Drinking. As of January 1, 2005, thirteen jurisdictions have statutes that prohibit social hosts from allowing or permitting underage drinking on their property. Although addressing the same problems, general laws are broader in scope than specific house party statutes (e.g., they may prohibit adults from allowing underage persons to consume alcohol in settings other than social gatherings), but they still apply to the underage drinking party context. These general laws do not provide specific guidelines commonly contained in specific house party laws, such as, for example, what steps a host can take to stop an underage party in progress to avoid criminal sanctions.

State Social Host Civil Liability Laws

Social host civil liability holds social hosts potentially responsible for the injuries to third parties caused by guests whom the hosts had served or had allowed to consume alcoholic beverages. This form of liability, which can be imposed by either statutes or common law negligence principles, involves private litigation and come into play only if an injured third party decides to sue the social host. Before the 1980s, state courts and legislatures in the United States were reluctant to impose liability on social hosts, reasoning that they were not as capable of handling the responsibilities of monitoring their guests' alcohol consumption as were commercial vendors. Over time, this initial reluctance waned, and courts and legislatures continued to impose liability against social hosts in a growing number of circumstances. This growth in the imposition of social host liability is particularly evident in cases in which the intoxicated person is underage. Today, courts and legislatures accord underage persons special treatment not accorded intoxicated adults, based on the rationale that "[un]derage persons, because of their youth and inexperience in both drinking and driving, need greater safeguarding from intoxication than adults." Only the state legislature or state courts (as opposed to city and county governments) have the authority to impose this form of civil liability.

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2 In addition, numerous local communities have passed ordinances that impose criminal liability on social hosts.


5 See Note, supra note 1, 14 U. Dayton L. Rev. at 377.

Response Costs Recovery Municipal Ordinances

A third type of social host liability occurs at the level of local government in the form of municipal (city or county) ordinances called "response costs recovery" ordinances. In general, these laws hold social hosts (including tenants) and landowners (including landlords) civilly responsible for the costs of law enforcement, fire, or other emergency response services associated with multiple responses to the scene of an underage drinking party or other gathering occurring on private property, whether or not the hosts or landowners had knowledge of the occurrence of the parties or gatherings.

As part of its county-wide initiative to reduce underage and binge drinking, including the occurrence of underage drinking parties and other gatherings, the Ventura County Behavioral Health Department's Training, Applied Research, and Alcohol and Drug Prevention Division, in collaboration with the Center for the Study of Law Enforcement and Policy (CSLEP) of Pacific Institute for Research and Evaluation (PIRE), has published the following model response costs recovery ordinance. This model ordinance can be the basis for a powerful new legal tool to deter underage drinking parties and other gatherings in communities throughout the county.

The model ordinance is drafted in a manner that addresses communities of diverse needs. It also accommodates the varied concerns of both the county's unincorporated areas and incorporated cities. The text of the model ordinance may be modified easily to address these differences. For the county, the model ordinance is best placed as a new Article 12 to follow Article 11, Loud or Raucous Nighttime Noise in Residential Zones in Division 6, Police Regulations, of the Codified Ordinances of the County of Ventura.
Highlights

of the Model Social Host Liability Ordinance

- Recognizes that the occurrence of loud or unruly parties on private property where alcoholic beverages are served to, or consumed by, underage persons is harmful to the underage persons themselves, is a threat to public health, safety, quiet enjoyment of residential property and general welfare, and constitutes a public nuisance.

- Recognizes that persons responsible for the occurrence of loud or unruly parties on private property over which they have possession or control have a duty to ensure that alcoholic beverages are not served to, or consumed by, underage persons at these parties.

- Recognizes that landlords have a duty to prevent the occurrence of loud or unruly parties, including those where alcoholic beverages are served to, or consumed by, underage persons, on private property they lease to tenants, even if they do not have day-to-day, physical control of the property.

- Recognizes that law enforcement, fire, or other emergency responders often need to respond multiple times to disperse underage drinking parties, resulting in a disproportionate expenditure of the public safety resources on these parties, delaying police responses to regular and emergency calls, and reducing police calls to the rest of a community.

- Recognizes that cities and counties require a variety of enforcement strategies to abate underage drinking parties under varying circumstances and that present law constrains the ability of law enforcement to deter underage drinking parties and other gatherings.

- As a primary strategy for deterring underage drinking parties on private property, imposes a civil fee against social hosts (including tenants) and/or landowners (including landlords) for the recovery of specified costs associated with providing law enforcement, fire, or other emergency response services on multiple occasions to the scene of a loud or unruly party where alcoholic beverages are served to, or consumed by, underage persons.

- Provides option of imposing criminal penalties in cases of egregious circumstances or recalcitrant offenders.
Model Social Host Liability Ordinance

Section 1. Short Title.

This Ordinance shall be known as the "Model Social Host Liability Ordinance."

Section 2. Legislative Findings.

The [city council/county board of supervisors] finds as follows:

(a) [The City of _________/County of Ventura], pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents;

(b) The occurrence of loud or unruly gatherings on private property where alcoholic beverages are served to or consumed by underage persons is harmful to the underage persons themselves and a threat to public health, safety, quiet enjoyment of residential property and general welfare;

(c) Underage persons often obtain alcoholic beverages at gatherings held at private residences or at rented residential and commercial premises that are under the control of a person who knows or should know of the underage service and/or consumption. Persons responsible for the occurrence of loud or unruly gatherings on private property over which they have possession or control have failed to ensure that alcoholic beverages are neither served to nor consumed by underage persons at these parties;

(d) Landlords have failed to prevent the occurrence or recurrence of loud or unruly gatherings, including those where alcoholic beverages are served to or consumed by underage persons, on private property they lease to tenants, which seriously disrupts the quiet enjoyment of neighboring residents;

(e) Problems associated with loud or unruly gatherings at which alcoholic beverages are served to or consumed by underage persons are difficult to prevent and deter unless the [City of __/Police Department/Ventura County Sheriff's Office] has the legal authority to direct the host to disperse the gathering;

(f) Control of loud or unruly gatherings on private property where alcoholic beverages are served to or consumed by underage persons is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public;

(g) Persons held responsible for abetting or tolerating loud or unruly gatherings will be more likely to properly supervise or stop such conduct at gatherings held on property under their possession or control;

(h) In the past and present, law enforcement, fire and other emergency response services personnel have and are required to respond, sometimes on multiple occasions, to loud or unruly gatherings on private property at which alcoholic beverages are served to or consumed by underage persons, and responses to such gatherings result in a disproportionate expenditure of public safety resources of the [City of __/Ventura County], which are underwritten by general municipal taxes paid to the [City/County] by its taxpayers and residents and delaying police responses to regular and emergency calls to the rest of the [City/County].

[Include this finding only if the legislative body intends to make allowing a loud or unruly gathering a strict liability offense. Do not include finding if legislative body intends to require that the offender "knowingly" allowed a loud or unruly gathering.]

(i) The intent of this Ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. An ordinance that imposes strict liability on property owners and other responsible persons for the nuisances created by loud and unruly gatherings is necessary to deter and prevent such gatherings. Persons who actively and passively aid, allow or tolerate loud or unruly gatherings shall be held strictly liable for the nuisances created by such gatherings and the costs associated with responding to such gatherings.

COMMENT

This section on findings describes the reasons of the city council or county board of supervisors for enacting a social host liability ordinance. The findings are included in the city council's/county board of supervisors' enactment of the ordinance. When the ordinance is codified in a city or county's municipal code, the findings, in the discretion of the legislative body, may be excluded. On the other hand, findings such as Finding (i) should be included in the codified ordinance to clarify legislative intent with respect to other provisions of the ordinance.
Section 3. Purposes.

The purposes of this Ordinance are:

(a) to protect public health, safety and general welfare;

(b) to enforce laws prohibiting the service to and consumption of alcoholic beverages by underage persons; and

(c) to reduce the costs of providing police, fire and other emergency response services to loud or unruly gatherings, by imposing a civil fee against social hosts and landowners (including landlords) for the recovery of costs associated with providing law enforcement, fire and other emergency response services to loud or unruly gatherings, including those where alcoholic beverages are served to or consumed by underage persons.

COMMENT

Findings and purposes provide guidance to courts interpreting legislative intent and publicly explain the goals and objectives of a city council or county board of supervisors in enacting the ordinance. (Metromedia, Inc. v. City of San Diego (1980) 26 Cal.3d 848, 858.)

Section 4. Definitions.

For the purposes of this Ordinance, the following terms shall have the following meanings:

(a) "Alcohol" means ethyl alcohol, hydrated outside of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(c) "Response costs" means the costs associated with responses by law enforcement, fire and other emergency response providers to loud or unruly gatherings, including but not limited to:

1) salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with loud or unruly gatherings, and the administrative costs attributable to such response(s);

2) the cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering;

3) the cost of repairing any city (county) equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of a loud or unruly gathering;

(d) "Juvenile" means any person under eighteen years of age.

(e) "Underage person" means any person under twenty-one years of age.

(f) "Loud or unruly gathering" means a party or gathering of two or more persons at or on a residence or other private property upon which loud or unruly conduct occurs. Such loud or unruly conduct includes but is not limited to:

1) excessive noise;

2) excessive traffic;

3) obstruction of public streets or crowds that have spilled into public streets;

4) public drunkenness or unlawful public consumption of alcohol or alcoholic beverages;

5) service to or consumption of alcohol or alcoholic beverages by any underage person, except as permitted by state law;

6) assaults, batteries, fights, domestic violence or other disturbances of the peace;

7) vandalism;

8) litter, and

9) any other conduct which constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare.

A loud or unruly gathering shall constitute a public nuisance.

(g) "Responsible person" means a person or persons with a right of possession in the residence or other private property on which a loud or unruly gathering is conducted, including, but not limited to:

1) an owner of the residence or other private property;
2) a tenant or lessee of the residence or other private property;

3) the landlord of another person responsible for the gathering;

4) the person(s) in charge of the residence or other private property; and

5) the person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering.

If a responsible person for the gathering is a juvenile, then the parent(s) or guardian(s) of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this Ordinance. To incur liability for response costs imposed by this Ordinance, the responsible person for the loud or unruly gathering need not be present at such gathering resulting in the response giving rise to the imposition of response costs. This Ordinance therefore imposes vicarious as well as direct liability upon a responsible person.

(b) "Residence or other private property" means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting hall, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.

COMMENT

Section 4 provides definitions for the other sections of the Ordinance. The definitions help clarify the rights and obligations of owner, tenants, and other persons in control of the property on which a loud or unruly party occurs. The definitions of "alcohol" and "alcoholic beverages" are identical to the relevant definitions in state statute (Cal. Bus. & Prof. Code, § 23903, 23904).

Section 5. Responsibility for Proper Property Management.

Every owner, occupant, lessee or holder of any possessory interest of a residence or other private property within the [City of ___County of Ventura] is required to maintain, manage and supervise the property and all persons thereon in a manner so as not to violate the provisions of this Ordinance. The owner of the property remains liable for such violations regardless of any contract or agreement with any third party regarding the property.

COMMENT

Section 5 provides that a property owner is liable for violating the ordinance (if certain conditions are met, described later in the ordinance). Under this provision, the owner can be held liable even if he/she has leased the property and does not have day-to-day responsibility for the property's management.

[Note: At least one other jurisdiction outside California, the Town of Bloomsburg, Pennsylvania, not only has a recovery of response costs ordinance, but also has an ordinance requiring landlords to obtain a permit from the town before leasing rental properties to students.]

(This version of Section 6 is for Cities only.)

Section 6. Penalties for Violation of Ordinance.

(a) It shall be an infraction for any responsible person to [knowingly] conduct, aid, allow, permit or condone a loud or unruly gathering at a residence or other private property.

(b) Fines.

1) A first violation of this Section shall be punishable by a $250 fine.

2) A second violation of this Section at the same residence or other private property; or by the same responsible person, within a twelve month period shall be punishable by a fine of $500.

3) A third or subsequent violation of this Section at the same residence or other private property; or by the same responsible person, within a twelve month period shall be punishable by a fine of $1,000.

(c) The fines prescribed at subsection (b) are in addition to any response costs that may be assessed pursuant to this Ordinance.

(d) The second, third or subsequent violation fines prescribed at subsection (b)(2) and (b)(3) are payable whether or not the responsible person for such loud or unruly gathering is different from the responsible person for any prior loud or unruly gathering at the residence or other private property.

(e) The fine schedule prescribed at subsection (b) is a "rolling schedule" meaning that in calculating the fine payable the [Police Department or City Attorney shall count backward starting from the date of the most recent loud or unruly gathering to determine how many prior loud or unruly gatherings have taken place.
at the residence or other private property in question during the statutory twelve month period. A warning given pursuant to this Ordinance shall remain in effect for the residence or other private property at a given address until a full twelve month period has elapsed during which there have been no response to a loud or unruly gathering at that residence or other private property.

(f) The fines set forth in this Section may be appealed pursuant to Section 10. The payment of any such fines shall be stayed upon any timely appeal.

COMMENT

This version of Section 6 should be included in city ordinances only. This section makes a violation of its terms an infraction. Infractions are crimes and public offenses. They are not punishable by imprisonment, however, and a person charged with an infraction is not entitled to a jury trial or to counsel appointed at public expense.

Even though the fines under this section would be prosecuted as criminal infractions, the prosecution would not have to prove criminal intent, that is, that the responsible person knew or should have known that he or she allowed a loud or unruly gathering. A violation of Section 7 should be deemed a strict liability infraction. Accordingly, if the legislative body chooses to make violation of this section a strict liability infraction, the word “knowingly” appearing in brackets, would be omitted. In addition, finding (1) in Section 2 would have to be included in the codified version of the ordinance to make clear that the legislative intent is to protect the public health, safety and welfare rather than to punish and that the ordinance imposes strict liability on property owners and other responsible persons for the nuisances created by underage drinking gatherings.

Some legislators may feel uncomfortable with an ordinance that does not require the prosecution to prove knowledge beyond a reasonable doubt under this section, particularly where the defendant is an absentee landlord or other property owner who was unaware of loud and unruly gatherings occurring on his/her property. In such case, the word “knowingly” could be included to require the prosecution to prove beyond a reasonable doubt, that the responsible person knew or should have known about the loud or unruly gatherings on his/her property.

In any event, imposition of response costs pursuant to Section 7 (see below) is a fee imposed separate and apart from the fines and penalties imposed here under Section 6, would not require proof of criminal intent, that is, no proof of knowledge, since the recovery of response costs is a strictly civil matter.

It should be noted that court proceedings for infractions are not lengthy; the matter may be resolved within a short number of months.

[This version of Section 6 is for the County Only.]

Section 6. Penalties for Violation of Ordinance.

It is a violation of this Ordinance for any responsible person to conduct or allow a loud or unruly gathering at a residence or other private property. Such a violation subjects the responsible person to the fines and penalties set forth in Section 13112 of Division 13, Abatement of Nuisances, of the Codified Ordinances of the County of Ventura.

COMMENT

The county of Ventura has an enforcement scheme to abate public nuisances set forth in Division 13, Abatement of Nuisances, of the Codified Ordinances of the County of Ventura. Applying the administrative fines and penalties provisions of Section 13112 permits the county to impose administrative fines and penalties against responsible persons as a strict liability public nuisance offense, rather than as a criminal offense requiring proof of criminal intent (knowledge) beyond a reasonable doubt.

The fine under Division 13 initially is smaller than those infraction fines set forth in this model ordinance for cities. This is because the administrative fines under Division 13 are limited in amount by Government Code section 53068.4, which is incorporated by reference in Division 13.

Note: If this ordinance were enacted, additional changes to the rest of the county ordinance would be necessary, such as an expansion of the definition of “Enforcement Officer” in section 13090(b) of Division 13, to include emergency response providers.

Section 7. Recovery of Response Costs.

When law enforcement, fire or other emergency response provider responds to a loud or unruly gathering at a residence or other private property within the [City of __County of Ventura] within a twelve month period of a warning given to a responsible person for a loud or unruly gathering, all responsible persons shall be jointly and severally liable for the [city's/county's] costs of providing response costs for that response and all subsequent responses during the warning period.

When a law enforcement, fire or other emergency response
provider official makes an initial response to a loud or unruly gathering at a residence or other private property within the [City of __/County of Ventura], the official shall inform any responsible person(s) for the gathering at the scene that:

(a) The official has determined that a loud or unruly gathering exists and

(b) Responsible person(s) will be charged for any response costs required for subsequent responses to the scene for a loud or unruly gathering within a twelve month period.

Only one warning will be given to a responsible person(s) pursuant to this Section before the [City of __/County of Ventura] assesses response service costs pursuant to Section 7. If a responsible person cannot be identified at the scene, the official may issue a warning to one or more persons identified in Section (4)(g) and/or subsequently return to the residence or other private property and issue the warning to a then-present responsible person. Warnings given to responsible persons who do not reside at the residence or other private property in question shall be delivered by first-class [and/or] certified mail.

COMMENT

The model ordinance sets forth a multi-tiered enforcement mechanism against responsible persons. With respect to cities at the first tier of enforcement, that is, at the first response stage, the responsible person would be held liable for a fine of $250 for a first-time infraction pursuant to Section 6. With respect to the county, the responsible person would be held liable for a fine of $500 pursuant to the fines and penalties set forth in Section 13112 of Division 13, Abatement of Nuisances, of the Codified Ordinances of the County of Ventura. At the first tier of enforcement, the responsible person would not be liable for recovery of response costs.

With respect to cities and the county at the second tier of enforcement, that is, when emergency response providers are required to make a follow-up call to either the same gathering or another gathering within 12 months at the same location, the responsible person would be held liable for an increased fine and, in addition, for response costs. For a third or subsequent response to either the same gathering or another gathering within 12 months at the same location, the responsible person would be held liable for an even larger fine, as well as for additional response costs.

Section 7 sets forth the conditions under which a responsible person shall be held liable for the recovery of response costs. This occurs when (1) an emergency response provider conducts a first response to the residence or other private property and determines that a loud or unruly gathering exists; (2) the emergency response provider gives a first warning to the responsible person; and (3) an emergency response provider conducts a subsequent response and either the loud or unruly gathering has not abated or another loud or unruly gathering is occurring at the residence or other private property.

An emergency response provider's determination that a loud or unruly gathering exists includes, but is not limited to, evidence that an underage drinking gathering is or was underway, in the form of the responding provider's personal knowledge or eyewitness accounts of third parties. Such evidence could include evidence of: underage persons fleeing the host's residence, presence of used or unused large, bottles, and cans, vehicles on the property not belonging to the host, complaints from neighbors, and property damage.

Legislative bodies should determine whether twelve months gives law enforcement sufficient time to enforce this Ordinance, especially against repeat offenders.

Recovery of response costs is a civil matter. Therefore, response costs recovery is imposed as a strict liability public nuisance offense, rather than as a criminal offense requiring proof of criminal intent (knowledge) beyond a reasonable doubt.

Section 8. Billing and Collection.

The amount of response costs shall be deemed a debt owed to the local entity by the responsible person held liable in Section 7 for the loud or unruly gathering and, if a juvenile, by the juvenile's parents or guardians. Any person owing such costs shall be liable in a civil action brought in the name of the city for recovery for such fees, including reasonable attorney fees.

Notice of the costs for which the responsible person is liable shall be mailed via first-class [and/or] certified mail within 14 days of the response giving rise to such costs. The notice shall contain the following information:

(a) the name of the person(s) being held liable for the payment of such costs;

(b) the address of the residence or other private property where the loud or unruly gathering occurred;

(c) the date and time of the response;

(d) the law enforcement, fire or emergency service
provider who responded;

(e) the date and time of any previous warning given pursuant to Section 7 and/or previous responses to loud or unruly gatherings at the residence or other private property in question within the previous twelve months; and

(f) an itemized list of the response costs for which the person(s) is being held liable.

The responsible person must remit payment of the noticed response costs to the [City Clerk/City Manager/Billings and Collections Division of the City of ___(County of Ventura)] within thirty days of the date of the notice. The payment of any such costs shall be stayed upon a timely appeal made pursuant to Section 10.

COMMENT

The billing mechanism that should be applied depends in part on the billing system already in place in the specific jurisdiction. Most jurisdictions have in place ordinances that set forth the procedures for administrative billing and fines. Reference should be made to those procedures, and the ordinances that provide for them, in Section 8 when this model ordinance is tailored to a specific jurisdiction. If such procedures do not exist in the jurisdiction, such procedures should be included in Section 8.

Section 9. Reservation of Legal Options.

Nothing in this Ordinance shall be construed as a waiver by the [City of ___(County of Ventura)] of any right to seek reimbursement for actual costs of response services through other legal remedies or procedures, including [for County ordinance only: Loud or Raucous Nighttime Noise in Residential Zones, Article 11 of Chapter 2, Division 6 of the Ventura County Ordinance Code]. The procedure provided for in this Ordinance is in addition to any other statute, ordinance or law, civil or criminal. This Ordinance in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this Ordinance.

COMMENT

Section 9 provides that the [City of ___(County of Ventura)] does not waive its rights to seek reimbursement through other available legal means and that the ordinance does not restrict law enforcement in making arrests for any criminal offenses arising from the underage drinking event. With respect to the former, this provision ensures that a city or county would not be precluded from bringing an action for public nuisance based on the same set of facts giving rise to a violation of the underaged party ordinance.

Section 10. Appeals.

Any person upon whom is imposed a fine/penalty pursuant to Section 6 and/or response costs recovery fees pursuant to Sections 7 and 8 shall have the right to appeal the imposition of such fine/penalty or fees to the local jurisdiction pursuant to the procedures established by the local jurisdiction for appealing the abatement of public nuisances.

COMMENT

Due process arguably requires some administrative appeal procedure for both the imposition of fines/penalties and response costs. As with Section 8, regarding Billing and Collection, the appeal section should reference the existing administrative appeal process in the particular jurisdiction. For example, in the County of Ventura, reference should be made here to 13102, Hearing on proposed abatement and imposition of administrative fines/penalties, of the Codified Ordinances of the County of Ventura. If no appeal process exists in the jurisdiction, the procedures for such a process and hearing should be set forth in Section 10.

Section 11. Severability.

If any provisions of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Section 12. Effective Date.

This Ordinance shall take effect on __________.
Bibliography


Appendix

RELEVANT CALIFORNIA STATE STATUTES
(AS OF SEPTEMBER 1, 2005)

CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 25658
25658. Providing alcoholic beverages to persons under the age of 21; prohibition; criminal punishment; law enforcement decays; additional punishment
(a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.
(b) Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.
(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under the age of 21 years, and the person under the age of 21 years thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.
(d) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.
(e)(1) Except as otherwise provided in paragraph (2) or (3), any person who violates this section shall be punished by a fine of two hundred fifty dollars ($250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of subdivision (b) shall be punished by a fine of not more than five hundred dollars ($500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.
(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars ($1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.
(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine not exceeding one thousand dollars ($1,000), or by both imprisonment and fine.
(f) Persons under the age of 21 years may be used by peace officers in the enforcement of this section to apprehend licensees, or employers or agents of licensees, who sell alcoholic beverages to minors. Notwithstanding subdivision (b), any person under the age of 21 years who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase an alcoholic beverage. Guidelines with respect to the use of persons under the age of 21 years as decoys shall be adopted and published by the department in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the department shall be authorized as long as the minor decoy displays to the seller of alcoholic beverages the appearance of a person under the age of 21 years. This subdivision shall not be construed to prevent the department from taking disciplinary action against a licensee who sells alcoholic beverages to a minor decoy prior to the department's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this subdivision, the law enforcement agency using the decoy shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by leaving a written notice at the licensed...
premises addressed to the licensee, or by mailing a notice addressed to the licensee.

(g) The penalties imposed by this section do not preclude prosecution under any other provision of law, including, but not limited to, Section 272 of the Penal Code.

CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 25662

25662. Possession of beverage by minor; authorization of peace officer to seize beverages; disposition of seized beverages. 

(a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars ($250) or the person shall be required to perform not less than 32 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars ($500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner’s office, if available, in the area where the violation occurred or where the person resides. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

SAMPLE CALIFORNIA ORDINANCES
(AS OF SEPTEMBER 1, 2005)

CITY OF BERKELEY

CHAPTER 13.48 CIVIL PENALTIES FOR MULTIPLE RESPONSES TO LOUD OR UNRULY PARTIES, GATHERINGS OR OTHER SIMILAR EVENTS

Section 13.48.010 Findings and purpose.

This chapter is enacted for the following public purposes among others:

A. Due to inadequate supervision, some large gatherings of people, such as parties, frequently become loud and unruly to the point that they constitute a threat to the peace, health, safety, or general welfare of the public as a result of conduct such as one or more of the following: excessive noise, excessive traffic, obstruction of public streets or crowds who have spilled over into public streets, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, and litter.

B. The City of Berkeley (hereinafter “City”) is required to make multiple responses to such unruly gatherings in order to restore and maintain the peace and protect public safety. Such gatherings are a burden on scarce City resources and can result in police responses to regular and emergency calls being delayed and police protection to the rest of the City being reduced.

C. In order to discourage the occurrence of repeated loud and unruly gatherings, the persons responsible for the public nuisance created by these gatherings should be fined. (Ord. 6182-NS § 1, 1993)
Section 13.48.030 Loud or unruly gatherings—Public nuisance.

It shall be unlawful and a public nuisance to conduct a gathering of ten or more persons on any private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, as a result of conduct constituting a violation of law. Illustrative of such unlawful conduct is excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, litter. A gathering constituting a public nuisance may be abated by the City by all reasonable means including, but not limited to, an order requiring the gathering to be disbanded and citation and/or arrest of any lawviolators under any applicable local laws and state statutes such as: Berkeley Municipal Code ("BMC") Chapter 13.60 et seq. (Community Noise), BMC Chapter 13.36 et seq. (Disorderly Conduct/Obstruction of Public Way), Penal Code Sections 415 and 416 (Breach of the Peace); BMC Chapter 12.40 et seq. and Penal Code Section 374 et seq. (Litter); Penal Code Section 647 (Public Intoxication/Obstruction of Public Way); Bus. & Prof. Code Section 25658 (Selling Alcohol to Minors), Vehicle Code Section 22724 (Possession of alcoholic beverage in vehicle, persons under 21); BMC Chapter 13.68 et seq. (Carrying Dangerous Weapons), Penal Code Section 12020 et seq. (Unlawful Carrying and Possession of Concealed Weapons). (Ord. 6182-NS § 2, 1993)

Section 13.48.030 Notice of unruly gathering—Posting, mail.

A. Posting of Premises. When the City intervenes at a gathering which constitutes a nuisance under this chapter, the premises at which such nuisance occurred shall be posted with a notice substantially in the form attached hereto as Exhibit "A" stating that the intervention of the City has been necessitated as a result of a public nuisance under this chapter caused by an event at the premises, the date of the police intervention, and that any subsequent event within a thirty-day period therefrom on the same premises, which necessitates City intervention, shall result in the joint and several liability of any guests causing the public nuisance, or any persons who own or are residents of the property at which the public nuisance occurred, or who sponsored the event constituting the public nuisance as more fully set forth in Sections 13.48.040–13.48.060 below. The resident of such property shall be responsible for ensuring that such notice is not removed or defaced and shall be liable for a civil penalty of one hundred dollars in addition to any other penalties which may be due under this section if such notice is removed or defaced, provided, however, that the residents of the house of sponsor of the event, if present, shall be consulted as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.

B. Mailing of Notice to Property Owner. Notice of the event shall also be mailed to any property owner at the address shown on the City's property tax assessment records and shall advise the property owner that any subsequent event within thirty days on the same premises necessitating City intervention shall result in liability of the property owner for all penalties associated with such intervention as more particularly set forth below. (Ord. 6182-NS § 3, 1993)

* Exhibit A, referred to herein, may be found at the end of this Chapter 13.48.

Section 13.48.030A Exhibit A.

EXHIBIT A

(Section 13.48.030A)

IMPORTANT NOTICE REGARDING:

PUBLIC NUISANCE

PURSUANT TO ORDINANCE NO. _____-NS, AS A RESULT OF A PRIOR DISTURBANCE AT PREMISES,

THE NEXT DISTURBANCE WILL RESULT IN CIVIL PENALTIES IMPOSED UPON ALL PARTICIPANTS AND

SPONSORS OF THE EVENT AND ALL PROPERTY OWNERS OF THE PREMISES.

NOTE: IS HEREBY GIVEN THAT pursuant to Ordinance No. _____-NS, at _____ p.m./

a.m., the Berkeley Police Department found that a public nuisance caused by a disturbance of the public peace and/or
to public safety occurred at the premises located at:

If there is a subsequent event on these premises which constitutes such a public nuisance and

negates the intervention of the Police Department on or before (count 60 days from the date of first police

intervention) any participant in and sponsor of such event, and the owner of the premises, shall be jointly and severally

liable for the civil penalties connected with this response as set forth in Ordinance No. _____-NS.

(Signature of Officer issuing notice)

(Name of Officer)
Section 13.48.040 Persons liable for a subsequent response to a gathering constituting a public nuisance.

If the City is required to respond to a gathering constituting a public nuisance on the same premises more than once in any sixty-day period, the following persons shall be jointly and severally liable for civil penalties as set forth in Sections 13.48.050 below, in addition to liability for any injuries to City personnel or damage to City property.

A. The person or persons who own the property where the gathering constituting a public nuisance took place, provided that notice has been mailed to the owner of the property as set forth herein and the gathering occurs at least two weeks after the mailing of such notice. For purposes of this subsection, where a gathering takes place within the confines of a single unit in a building owned by a housing cooperative, the owner of the property shall be deemed to be the owner of the single unit and not the members of the housing cooperative in general. Where the gathering took place in the common area of a building owned by a housing cooperative, only the members of the cooperative owning units in the building where the gathering took place shall be deemed the owners of the property for purposes of this subsection. Other members of the housing cooperative may still be liable if they fall within the categories of person made liable by Section 13.48.040, subsections B, C, or D, below.

B. The person or persons residing on or otherwise in control of the property where such gathering took place.

C. The person or persons who organized or sponsored such gathering.

D. All persons attending such gathering who engaged in any activity resulting in the public nuisance.

E. Nothing in this section shall be construed to impose liability on the resident or owners of the premises or sponsor of the gathering, for the conduct of persons who are present without the express or implied consent of the resident or sponsor, as long as the resident and sponsor have taken all steps reasonably necessary to exclude such uninvited participants from the premises. Where an invited guest engages in conduct which the sponsor or resident could not reasonably foresee and the conduct is an isolated instance of a guest at the event violating the law which the sponsor is unable to reasonably control without the intervention of the police, the unlawful conduct of the individual guest shall not be attributable to the sponsor or resident for the purposes of determining whether the event constitutes a public nuisance under this section. (Ord. 6182-NS § 4, 1993)

Section 13.48.050 Schedule of civil penalties.

A. Civil penalties shall be assessed against all persons liable for the City's intervention to abate a gathering constituting a public nuisance as follows:

1. For the second response in any sixty day period the penalty shall be the total sum of five hundred dollars.

2. For the third response in any sixty day period the penalty shall be the total sum of one thousand dollars.

3. For any further response in any sixty day period the penalty shall be the total sum of one thousand five hundred dollars for each such further response.

4. The penalties that are provided herein shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of an event which is a public nuisance under this ordinance, provided however, that if the only violation of law which constituted the public nuisance under this chapter is excessive noise, the remedies provided under this chapter shall be exclusive of any other remedies provided by law to the City for such excessive noise.

B. The City shall bill all persons liable for the penalties by mail by sending a letter in substantially the form attached hereto as Exhibit "B." Payment of the penalties shall be due within thirty days of the date the bill is deposited in the mail. If full payment is not received within the required time for payment, the bill will be delinquent, and all persons liable for the penalties shall be charged interest at the maximum legal rate from the date the payment period expires and a further civil penalty in the amount of one hundred dollars. (Ord. 6182-NS § 5, 1993)

* Exhibit B, referred to herein, may be found at the end of this Chapter 13.48.
Section 13.48.050B Exhibit B

EXHIBIT B
(Section 13.48.050B)

Date:

To:

Dear:

The City of Berkeley was required to abate the public nuisance caused by a gathering of ten or more persons at (location of property), which substantially disrupted the quiet enjoyment of property in a significant segment of the adjacent neighborhood. This is the (second/third/fourth, etc.) such public nuisance at this property within the last sixty (60) days and thus a penalty of $550.00, $1,000.00, etc.) is imposed on you. If you fail to remit this fine to the City of Berkeley by (30 days later) you will be liable for an additional $100.00 penalty, plus interest. The payment should be remitted to the address listed below.

Your liability is based on the fact that you were:

[] An owner of the property to whom was sent prior notice of a public nuisance at the property within the previous 60 days; and/or

[] A person who resides on or is otherwise in control of the property where the public nuisance took place; and/or

[] A person who organized or sponsored the event creating the public nuisance at such property; and/or

[] A person who attended the event constituting the public nuisance at such property and engaged in the conduct which resulted in the public nuisance.

If you believe that you are not liable you may defend this claim in the civil action which the City of Berkeley will file against you upon your failure to remit the penalty. You should be aware, however, that if you fail to prevail in that action you will be liable for the additional penalty of $100.00 and interest on the total penalties.

Sincerely yours,

[Name, title, address and phone number of signatory]

Section 13.48.060 Collection of delinquent costs for a subsequent City response.

A. The penalties assessed as a result of a subsequent City response to a loud or unruly gathering shall constitute a debt of all persons liable for the penalties in favor of the City and may be collected in any manner authorized by law and are recoverable in a civil action filed by the City in a court of competent jurisdiction. The remedies provided by this chapter are in addition to all other civil and criminal remedies available to the City with respect to the unlawful conduct constituting the public nuisance which gave rise to the need for the City response under this chapter.

B. The City of Berkeley may also collect the fees assessed against the owner of the property as provided in Ordinance No. 6156-N-S., The Recovery of Costs for Abatement of Nuisances Ordinance (BMC Chapter 1.25). (Ord. 6182-NS § 6, 1993)

Section 13.48.070 Nondiscrimination against students.

This chapter shall not be enforced in a manner which targets property housing students. Nothing in this section shall preclude the City from setting priorities in the use of its resources by enforcing this chapter against the events that are the most disruptive or against properties at which disruptive events are held most often or on the basis of other similar legitimate factors. (Ord. 6182-NS § 7, 1993)

CITY OF SANTA CRUZ

Chapter 9.37 CHARGES FOR SPECIAL SECURITY SERVICES AT LOUD OR UNRULY GATHERINGS

9.37.010 DEFINITIONS.

The following terms used in this chapter shall have the meanings set forth in this section.

(a) "Responsible person(s)" shall mean a person(s) with a right of possession in the property on which a loud or unruly gathering is conducted, including, but not limited to, an owner or tenant of the property if the gathering is on
private property; or a permittee if the gathering is a permitted gathering on public property, or any person(s) accepting responsibility for such a gathering. "Responsible person" shall additionally include the landlord of another responsible person and the parents and/or legal guardian of responsible persons under the age of 21 years. To incur liability for special security service charges imposed by this chapter the responsible person need not be present at the loud or unruly gathering resulting in the emergency response giving rise to the imposition of special security service charges. This chapter therefore imposes vicarious as well as direct liability upon responsible persons.

(b) "Special security services" shall mean the provision of any police, fire or other emergency response service to a loud or unruly gathering within twelve months of a first response as provided in this chapter.

(c) "Loud or unruly gathering" shall mean a gathering of two or more persons on private property or a permitted gathering of two or more persons on public property whose loud or unruly conduct constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare, including violations of Chapter 9.06. This term excludes incidents of domestic violence. A loud or unruly gathering shall constitute a public nuisance.

(Ord. 2005-20 § 1, 2005; Ord. 89-03 § 1, 1989).

9.37.020 RESPONSE TO LOUD OR UNRULY GATHERINGS.

When a police officer responds to a loud or unruly gathering at premises in the city with a given address, the officer shall inform any responsible person at the scene that:

(a) The officer has determined that a loud or unruly gathering exists; and

(b) Responsible persons will be charged for the cost of any special security services required for subsequent responses to the scene within the next twelve months.

Only one warning will be given pursuant to this section before the city assesses special security service costs pursuant to Section 9.37.030. If a responsible person cannot be identified at the scene, the police department may issue a warning to one of the other responsible persons identified in Section 9.37.010(e) or subsequently return to the scene and issue the warning to a then-present responsible person. Warnings given to responsible persons who do not reside at the premises in question shall be delivered by certified mail.

(Ord. 2005-20 § 2, 2005; Ord. 89-03 § 1, 1989).

9.37.030 COST RECOVERY FOR SPECIAL SECURITY SERVICES.

When the police department or fire department or other city emergency responder responds to a loud or unruly gathering at premises with a given address in the city within twelve months of a warning given to a responsible person for those premises pursuant to Section 9.37.020, or while any such warning remains in effect pursuant to Section 9.37.050, all responsible persons shall be jointly and severally liable for the city's costs of providing special security service for that response and all subsequent responses during that warning period.

(Ord. 2005-20 § 3, 2005; Ord. 89-03 § 1, 1989).

9.37.040 BILLING AND COLLECTION.

Charges for special security service shall include a reasonable charge for the emergency responder's time and actual costs of any equipment used or damaged in connection with the response, together with an additional thirty-three percent of the special security charge for administrative overhead. These charges shall be computed and a bill submitted to the responsible person(s). The chief of police shall promulgate notice and billing procedures for this purpose. The bill shall be a debt owed to the city and failure to pay that bill within thirty days is a violation of this code. If the city is obliged to initiate litigation or other proceedings authorized by Title 4 of this code to recover this debt, the responsible person shall be liable for:

(a) Costs of suit;

(b) Attorney's fees; and

(c) Costs of collection.

(Ord. 2005-20 § 4, 2005; Ord. 89-03 § 1, 1989).

9.37.050 VIOLATIONS/FINES.

(a) It shall be an infraction for a responsible person to conduct or allow a loud or unruly gathering on premises owned
by the responsible person or on premises rented by or to the responsible person. A third or subsequent violation within a twelve-month period shall constitute a misdemeanor.

(b) Fines.

(1) A first violation of this Section shall be punishable by a $250 fine.

(2) A second violation of this section at a given address in the city within a given twelve-month period shall be punishable by a fine of $500.

(3) A third or subsequent violation of this section at a given address in the city within a given twelve-month period shall be punishable by a fine of $1,000.

(c) The fines prescribed at subsection (b) are in addition to any special security service charges that may be assessed pursuant to this chapter.

(d) The second, third or subsequent violation fines prescribed at subsections (b)(2) and (b)(3) are payable whether or not the responsible person at the time of the current loud or unruly gathering is the same person who was the responsible person for any prior loud or unruly gathering at those premises.

(e) The fine schedule prescribed at subsection (b) is a "rolling schedule" meaning that in calculating the fine payable the police department or city attorney shall count backward starting from the date of the most recent loud or unruly gathering to determine how many prior loud or unruly gatherings have taken place at the premises in question during the statutory twelve month period. A warning given pursuant to Section 9.27.020 shall remain in effect for the premises at a given address until a full twelve-month period has elapsed during which there have been no loud or unruly gatherings at those premises.


9.37.060 SERVICE OF ALCOHOLIC BEVERAGES TO MINORS.
The city council hereby finds that the service of alcohol to minors at loud and unruly gatherings and the consumption of alcohol by minors at loud or unruly gatherings has in the past and continues to pose a threat to the health and safety of all persons who reside in the city and also causes significant disruption of city residents' quiet enjoyment of their households, especially in the city's residential neighborhoods. In addition, such conduct on behalf of persons who serve alcohol to minors and minors who consume alcohol at loud or unruly gatherings results in the expenditure of a disproportionate percentage of the city's police, fire and public safety resources which are underwritten primarily by general municipal taxes paid to the city by its taxpayers and residents. It is therefore the policy of the city council that in responding to loud or unruly gatherings, the city police department shall strictly enforce any and all applicable state laws pertaining to the service of alcohol to minors, and the consumption of alcohol by minors, and with respect to minors in possession of alcohol, the police department shall establish a "no tolerance" protocol by which the police department contacts, or causes the minor's school to contact, the minor's parents or legal guardians whenever the minor is found to be in possession of alcohol or narcotics or found to be intoxicated at a loud or unruly gathering. Where the minor's school has an internal student disciplinary office any such incident shall likewise be reported to that office.

(Ord. 2005-20 § 6, 2005).

CITY OF SANTA ROSA
Chapter 10-28 MINOR ALCOHOL OFFENSE/LOUD PARTIES
10-28.010 Title.
The title of this chapter shall be "Minor Alcohol Offense/Loud Parties." (Ord. 2999 § 1 (par), 1992)

For the purpose of this chapter, the following definitions shall apply:

(A) "Juvenile" means any minor child under the age of 18 years old.

(B) "Minor" means any person, under the age of 21 years old.

(C) "Party, gathering or event" means a group of persons who have assembled or are assembling for a social occasion or a social activity.

(D) "Person responsible for the event" means and includes, but is not limited to:

1. The person who owns, rents, leases or otherwise has control of the premises where the party, gathering or event takes place.

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(2) The person in charge of the premises;
(3) The person who organized the event.

If the person responsible for the event is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the costs incurred for police services pursuant to this chapter.

E) “Police services” means and includes the salaries and benefits of the Police Officers for the amount of time actually spent in responding to, or in remaining at, the party, gathering or event and the administrative costs attributable to the incident; the actual costs of any medical treatment to injured Officers; the cost of repairing any damaged City equipment or property; and the costs arising from the use of any City equipment in responding to or remaining at a party, gathering or event. (Ord. 2999 § 1 (part), 1992)

10-28.030 Unlawful gatherings on private property when alcohol is served to minors.
Except as permitted by Article I, Section 4, of the California Constitution, no person shall suffer, permit, allow or host a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where five or more persons under the age of 21 are present and alcoholic beverages are in the possession of or are being consumed by any person under the age of 21 years. (Ord. 2999 § 1 (part), 1992)

10-28.040 Police services at parties, gatherings or events requiring a second response.
When any party, gathering or event occurs on private property and a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person(s) responsible for the event will be held liable for the cost of providing police services during a second or follow-up response by the police, after a first warning to the person(s) responsible for the event to control the threat to the public peace, health, safety or general welfare. (Ord. 2999 § 1 (part), 1992)

Except as permitted by state law, no person under the age of 21 years shall have in his or her possession, or consume, any alcoholic beverage at any place not open to the public, unless that person is being supervised by his or her parent or legal guardian. (Ord. 2999 § 1 (part), 1992)

10-28.060 Police service fees.
The amount of police service fees shall be deemed a debt owed to the City by the person responsible for the event and, if juveniles, their parents or guardians. Any person owing such fees shall be liable in an action brought in the name of the City for recovery for such fees, including reasonable attorney fees. (Ord. 2999 § 1 (part), 1992)

Useful Websites

http://aloholpolicy.niaaa.nih.gov/index.asp?SEC=@8ECDAA97-2E14-4DF9-CAAFF70C149#0CE278&type=BA5_API5.

Accessed 9/1/05.

San Diego County Policy Panel on Youth Access to Alcohol. The San Diego County Social Host Movement: A Case Study.
Accessed 9/1/05
Appendix 6 - Agendas and Notes of the Commission
Agenda for the City-College Commission Meeting
30 April 2007 – 7 P.M.
Plattsburgh City Hall Conference Room

A. Additional Discussion and Expansion of Problems Identified at the Last Meeting (See notes of 24 April 2007 – Item B) – 30 minutes

B. Development of Statement of Purpose – 15 to 20 minutes

C. Break 10 to 15 minutes – Refreshments

D. Development of Human Resource List for the Commission’s Review of the Problems and their Sources – Examples: do we ask the Police Chief of Plattsburgh to come and meet with us to provide insight on statistics on the incidence and type of problems in downtown area as well as current activities the force pursues relative to the problems – do we ask the City Judge to speak to us regarding the approaches taken by the court in the disposition of the problems associated with the cases that come before the court – do we ask the Dean of Students to provide statistics on on-campus issues related to these problems and how the College deals with them. In each case, we might ask the individuals to provide suggestions on tools they might need to help abate the problems as well as their sources. – 30 to 60 minutes.

E. Next Meeting Agenda – 10 minutes.
F. Appearance by Desmond Racicot, Chief of Police and Patrol Lieutenant LaJoy—30 minutes

G. Chris Dominiani, President of Plattsburgh Downtown Association—30 minutes

H. Rick Perry, Building Inspector, city of Plattsburgh—30 minutes

I. Items for Commission Discussion—30 minutes:
   a. Possible Establishment of Subcommittees To Craft Recommendations Related to:
      i. Zoning Regulations
      ii. The College and Educational Programs
      iii. Positive Experiences of Other Cities and Towns
      iv. Enforcement and Penalties
   b. Development of Questions for Visitors
      i. May 14: Stuart Voss, Ed Zukowski, Terry Meron and third group TBA
      ii. May 21: Open
      iii. May 28: Memorial Day – No Meeting
      iv. June 4: College Student Affairs Personnel (tentatively)
      v. June 11: Open
      vi. June 18: Open
      viii. July 2: Fourth of July – No Meeting
      ix. July 9: Consideration of Report Drafts
      x. July 16: Final Consideration of Report 
         Tavern Owners, Students, and Judge Clute TBA

J. Next Meeting Agenda—10 minutes.
Agenda for the City-College Commission Meeting
14 May 2007 – 7 P.M.
Plattsburgh City Hall Conference Room
(Old City Courtroom)

A. **Dr. Stuart Voss**, Former Councilor for the City of Plattsburgh – 40 minutes
   a. **Question to be Addressed:** Could you provide a synopsis of why we need the ordinances you drafted regarding problems in the center City area and what ones still need to be enacted?

B. **Mr. Ed Zukowski and Mr. Terry Meron**, landlords in the City of Plattsburgh – 40 minutes
   b. **Questions to be Addressed:**
      i. From your perspectives as landlords with many years of experience, what do you see as the issues with rentals in the City?
      ii. Do you find enforcement of building regulations and other codes uniform across the City?
      iii. What are the problems associated with writing clauses into leases such as, “no mass parties are allowed” that will allow for eviction if violated?
      iv. Would a reward type incentives in leases be something that landlords could pursue (for example: if the tenants in a particular unit achieved a certain GPA or helped to maintain the property in some way)?
      v. Do you see any effects from maintaining a positive exterior appearance in terms of the behavior of the tenants?
      vi. Do you do any educational programs on move-in day (such as providing a list of numbers to call for certain problems, providing the “rules of the road” so to speak in terms of acceptable behavior in the neighborhood)?
      vii. Would having 12-month leases in which the tenants pay by the month be useful?
      viii. Would an association of landlords by beneficial to your efforts to maintain your property?

C. **Reports:**
   c. Zoning (Sue Levaque, Chair)
   d. Education Programs (Allison Swick-Duttine, Chair)
   e. Enforcement and Penalties (William Provost, Chair)

D. **Items for Commission Discussion – 30 minutes:**
   a. Consideration of a Press To be provided at the meeting.
   b. Development of Questions for Visitors
      i. May 21: Students and Judge Clute (tentatively)
      ii. May 28: Memorial Day – No Meeting
iii. June 4: College Student Affairs Personnel (Dr. Kathleen Camelo, Mr. Bryan Hartman, Chief Arlene Sabo, Assistant chief Jerry Lottie plus Ms. Allison Swick-Duttine, Mr. Steve Matthews and Mr. William Laundry)

iv. June 11: Tavern Owners (tentatively)

v. June 18: Florida Report (tentatively)

vi. June 25: Consideration of Report Drafts

vii. July 2: Fourth of July – No Meeting

viii. July 9: Consideration of Report Drafts

ix. July 16: Final Consideration of Report
Agenda for the City-College Commission Meeting
21 May 2007 – 7 P.M.
Plattsburgh City Hall Conference Room
(Old City Courtroom)

1. Honorable Penelope Clute, Judge of the City of Plattsburgh – 60 minutes
   a. Question to be Addressed:
      i. Of all the violations or infractions that result in appearance before your
         bench, what are the five most common types involving the Center City
         (are enclosed by the intersection of Margaret, Broad, Draper, and
         Cornelia) problems (relating to noise, disorderly conduct, etc.)?
      ii. Of the five most common types of violations or infractions noted in the
          first bullet, what are the maximum penalties for each type?
      iii. Of the five most common types of violations or infractions, what is the
           usual penalty if an individual is found guilty of the violation or infraction
           of the law?
      iv. What would you recommend to us that would result in better teamwork
          among the various groups that enforce the laws and ordinances?
      v. In your opinion, how could the City ordinances be improved to address the
         Center City problems such as noise, vandalism, property damage, etc.?
      vi. In broad terms (that is, we understand that as a judge you are called to
          make specific judgments for specific cases and circumstances), what is
          your philosophy on pleas-bargaining and Adjournment with contemplation
          of Dismissal or ACD as we have heard it named?
      vii. If someone receives ACD, how does the system track the individual (and
           who actually does it) to assure that they do not commit a new offense
           within the time specified under the terms of the adjournment?

2. Mr. Joseph Murphy, PSU Student and former resident of Center City – 30 minutes
   a. Questions to be Addressed:
      i. Do you feel a responsibility to the community?
      ii. What are your perceptions of the problems faced by the students in the
          Center City?
      iii. What are the strengths of Plattsburgh that would engage you as a member
           of that community?
      iv. What challenges do you see to becoming a member of that community?

3. Reports:
   a. Zoning (Sue Levaque, Chair):
   b. Education Programs (Allison Swick-Duttine, Chair):
   c. Enforcement and Penalties (William Provost, Chair)

4. Development of Questions for Visitors: 30 minutes
   a. May 28: Memorial Day – No Meeting
   b. June 4: College Student Affairs Personnel (Mr. Bryan Hartman, Chief Arlene
      Sabo, Assistant Chief Jerry Lottie plus Ms. Allison Swick-Duttine, Mr. Steve
      Matthews and Mr. William Laundry)
   c. June 11: Mr. Benedetto of ABC
d. June 18: Florida Report (tentatively) and College-Community Partnership (Dr. Kathleen Camelo and Ms Yvonne Lott)
e. June 25: Consideration of Report Drafts
f. July 2: Fourth of July – No Meeting
g. July 9: Consideration of Report Drafts
h. July 16: Final Consideration of Report
Agenda for the City-College Commission Meeting
4 June 2007 – 7 P.M.
Plattsburgh City Hall Conference Room
(Old City Courtroom)

1. Plattsburgh State Presentation – 90 minutes
   a. Issues to be Addressed: (From email of 5/29/07 to Group for E. J. Miller)
      i.

2. Reports:
   a. Zoning (Sue Levaque, Chair):
   b. Education Programs (Allison Swick-Duttine, Chair):
   c. Enforcement and Penalties (William Provost, Chair)

3. Development of Questions for Visitors: 30 minutes
   a. June 11: Mr. Benedetto of ABC
      i. Can Plattsburgh pass a local ordinance for a moratorium on new licenses?
      ii. Can we pass a city ordinance on mandatory server training (TIPS)?
      iii. Can we do something through zoning to limit or reverse the high density of bars in the downtown area?
      iv. Can we pass a local “party permit” requirement to limit the number of individuals at a party where alcohol is present?
      v. Are open parties where people pay a fee to enter for something else but alcohol is self-serve legal?
      vi. What are New York’s Social Host laws and do they only apply to licenses establishments?
      vii. Can the City pass more stringent Host ordinances?
      viii. Can we ban home delivery of alcohol by non-USPS workers?
      ix. How does the license process work and do the City and neighbors get a chance to oppose or comment on the issuance of a license?
      x. How many stings on bars in the City of Plattsburgh does ABC participate?
      xi. How many stings on parties in the City of Plattsburgh does ABC participate?
   b. June 18: Florida Report (tentatively) and College-Community Partnership (Dr. Kathleen Camelo and Ms Yvonne Lott)
   c. June 25: Consideration of Report Drafts
   d. July 2: Fourth of July – No Meeting
   e. July 9: Consideration of Report Drafts
   f. July 16: Final Consideration of Report
1. Mr. Benedetto of ABC: Presentation and Q&A – 90 minutes
   a. Issues to be Addressed:
      i) Can Plattsburgh pass a local ordinance for a moratorium on new licenses?
      ii) Can we pass a city ordinance on mandatory server training (TIPS)?
      iii) Can we do something through zoning to limit or reverse the high density of bars in the downtown area?
      iv) Can we pass a local “party permit” requirement to limit the number of individuals at a party where alcohol is present?
      v) Are open parties where people pay a fee to enter for something else but alcohol is self-serve legal?
      vi) What are New York’s Social Host laws and do they only apply to licenses establishments?
      vii) Can the City pass more stringent Host ordinances?
      viii) Can we ban home delivery of alcohol by non-USPS workers?
      ix) How does the license process work and do the City and neighbors get a chance to oppose or comment on the issuance of a license?
      x) How many stings on bars in the City of Plattsburgh does ABC participate?
      xi) How many stings on parties in the City of Plattsburgh does ABC participate?
      xii) How are happy hour regulations interpreted and enforced?
      xiii) What is in the works with respect to State law changes in the area of alcohol?
      i.

2. Reports: 30 minutes
   a. Zoning (Sue Levaque, Chair)
   b. Education Programs (Allison Swick-Duttine, Chair)
   c. College Policies (Bill Laundry, Chair)
   d. Enforcement and Penalties (William Provost, Chair)
   e. Conference Proposals (Nancy Monette, Chair)

3. Development of Questions for Visitors: 30 minutes?
   a. June 18: Florida Report (tentatively) and College-Community Partnership (Dr. Kathleen Camelo and Ms Yvonne Lott)
   b. June 25: Consideration of Report Drafts
   c. July 2: Fourth of July – No Meeting
   d. July 9: Consideration of Report Drafts
   e. July 16: Final Consideration of Report
**Agenda for the City-College Commission Meeting**  
18 June 2007 – 7 P.M.  
Alumni Room – Angell College Center

Mr. Jerimy Blowers, Ms. Yvonne Lott, Jessica Antonucci, Plattsburgh Partnership – 90 minutes

**Issues to be Addressed:**
- Partnership: Description and Activities
- Alcohol and the Characteristics of City and College based on Previous Studies.

**Reports:** 30 minutes
- Zoning (Sue Levaque, Chair)
- Education Programs (Allison Swick-Duttine, Chair)
- College Policies (Bill Laundry, Chair)
- Enforcement and Penalties (William Provost, Chair)
- Conference Proposals (Nancy Monette, Chair)

**Future:** 15 minutes?
- June 25:
  - Presentation of Best Ideas from Gainesville Meeting: Best Practices in Town Gown Relations – Nancy Monette and Ed Miller
  - Consideration of Drafts of Proposals from the College
- July 2: Fourth of July – No Meeting
- July 9: Consideration of Report Drafts
- July 16: Final Consideration of Report

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**Agenda for the City-College Commission Meeting**  
25 June 2007 – 7:30 P.M.  
Alumni Room – Angell College Center

Review and prioritize ideas from Gainesville and Colorado Best Practices Meeting as well as other ideas that were offered during the Commissions sessions.

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**Agenda for the City-College Commission Meeting**  
9 July 2007 – 7:30 P.M.  
Alumni Room – Angell College Center

Notes of the City-College Commission Meeting
April 24, 2007

The meeting convened at 7:30 AM in the 6th Floor Kehoe Administrative Building, SUNY Plattsburgh Campus


Also Present: Dr. John Ettling, President of SUNY Plattsburgh and the Honorable Donald Kasprzak, Mayor of the Plattsburgh

A. Charge to the Commission by the Mayor and President: Both leaders expressed the wish that the Commission examine the problems associated with and causes of inappropriate behaviors encountered by those living in the Center City of Plattsburgh. The review should culminate in a set of recommendations for practical remedies that have been found to reduce the level and amount of these behaviors. Desirable as characteristic of these recommendations was that they be practical, economical and sustainable (i.e., that they have the ability to continue past the extant administrations on campus and in the City). The recommendations should be submitted by mid July of 2007.

B. Identification of Problems by Members of the Commission: Members of the Commission spent approximately 60 minutes using personal experience to identify the existing problems in the area known as the “Center City “ (areas enclosed by the intersection of Margaret, Cornelia, Draper and Broad Streets – Although it was acknowledged that the problems seem to be spreading to adjacent areas of the City). The problems identified were then prioritized as follows)
   a) Density of People (6 votes): zoning allowances for house to apartment conversions; high occupancy of individual dwellings; grandfathering which allows existing conditions to continue, as well as other underlying issues.
   b) Lack of Respect (6 votes): Lack of respect of the students for the community as exhibited by many different behaviors such as noise after hours, vandalism, public urination, etc.; lack of respect by some landlords who treat student renters as sources of cash and who don’t necessarily keep up their properties.
   c) Alcohol Abuse and Use (6 votes): Several areas here were identified as areas that need to be reviewed – enforcement by police and ACB, education practices, lax penalties, City Court punishments and allowance for mass gatherings with alcohol present.
   d) Consistency of Message (6 votes): discussion centered on the possible lack of consistency about the level of expected behavior.
   e) Trash/Vandalism (1 vote): Self evident as problems that detract from the neighborhood.
   f) Noise (1 vote): Self-evident as a problem within the neighborhood.
   g) Apartment Conditions (5 votes): discussion centered on the squalid conditions within certain apartment dwellings that may lead to lowered expectations of behavior by the occupants; exploitation by landlords (see above item under lack
of respect); lack of business rules under which the apartment houses operate; lack of emergency contacts, and lack of safety/wellness rules for apartments.

h) **Follow-Through (7 votes):** discussion centered on the coordination between City Departments in terms of enforcement of existing rules and regulations – idea might be expanded to thoughts about consistency of message on the college-side.

i) **Mobility of the Problem (0 votes):** it was conjectured that by tougher enforcement of the policies in one area, i.e., on campus and or in the local taverns, may push the problems to the off-campus housing.

C. **Meeting Times:** It was decided that the best meeting times would be Monday evenings at 7 P.M. The next meeting was set for 30 April with location to be announced. Meetings will be weekly until the Commission completes its task.

D. **Web Site:** It was decided that a web site for the members of the Commission would be good idea. This will allow members to post items and review documents as needed. Ed Miller will look into it.

E. **Media Participation:** The idea of how the media was to participate was discussed. It was decided that perhaps it would be helpful to send summary notes of our meetings to the media as the Commission deems appropriate. One member expressed the need for the community members to have some hope that something might come of the Commission’s work and media messages would bring the people hope. This topic will be discussed some more once additional input is received regarding the open meeting law and how it applies to the Commission’s work.

Meeting adjourned at 9:30 P.M.
Notes of the City-College Commission Meeting  
April 30, 2007  

The meeting convened at 7:00 PM in the Conference Room, City Hall Building, Plattsburgh, New York  


A. Continuation of Identification of Problems by Members of the Commission:  
Members of the Commission spent approximately 60 additional minutes using personal experience to expand on the problems in the area known as the “Center City.”  

a. Visual Appearance: Even if there is an absence of behavioral issues, the appearance of some of the properties is a problem. Zoning.  
   i. It was noted that properties of more than 4 rental units are considered commercial properties. They have not been reassessed since 2001 while residential properties have been assessed.  
b. Trash: The issue of trash is really two-fold: Litter and actual garbage storage/pickup.  
   i. Litter: This was noted as more like vandalism and not related to the issue of storage/pickup.  
   ii. Garbage Removal: It was noted that individuals store garbage in the house and this becomes a health and fire hazard. Garbage is not always removed in a timely manner from outside of some houses; stored correctly; or placed at the curb correctly. It was noted that the Building Inspector can cite houses for these problems but it was unknown how many times that has occurred or what the outcome is of the citation.  
c. Inspection by Fire Department Personnel: The idea of having the fire department augment the building inspector’s efforts by doing apartment dwelling inspections was discussed. It was noted that the ability to have regular fire fighters do the inspections was negotiated away some years ago. Still the question of the fire chief or lieutenants doing the inspections was discussed.  
d. Warnings: The issue that too many warnings are issued was discussed. It was felt that more immediate citations should be given by the police and for building issues as well such as parking on the grass.  
e. Hospitality Zone: The concept of a Hospitality Zone was raised. Mrs. Monette will investigate this further and provide materials for discussion. Basically, a covenant among all of the parties in an area such as tavern owners, businesses, perhaps the College and others would be created regarding the agreed to practices of the members of the covenant.  
f. Enforceability: The Commission discussed the issue of making recommendations that are enforceable, i.e., in terms of any changes in the building code. This will be a guiding principle of the group.
g. **Generic areas:**
   i. Would maximum occupancy stickers help combat the large gathering for parties?
   ii. The frequency of building inspections for all rental units (commercial v. residential or less than 4 units) was discussed.
   iii. The issue of requiring licenses was discussed for rental units.
   iv. The Commission wondered whether we can ask the Health Department to get involved for large gatherings where there is limited bathroom facilities.
   v. The Commission wondered whether a permit should be required for large gatherings on private properties.
   vi. A lack of “rules of the road” orientation for students was thought to exist. Connected to this, it was wondered whether a transition class could be required of students before being allowed to move off campus.
   vii. It was opined that eviction was not in the best interest of landlords because of the payment scheme generally used of requiring payment for the whole semester up-front before move-in.

B. **Human Resources for the Commission:** The Commission discussed the idea of who to invite to provide us with information for our recommendations. The following individuals were identified:
   a. Judge Clute
   b. ABC representative
   c. Student tenets
   d. Stuart Voss to speak on past resolutions
   e. Maurica Gilbert to speak on zoning issues
   f. Rick Perry to speak on building code issues
   g. Landlords such as Ed Zukowski, Terry Meron and Ken Mousseau
   h. Police Chief and Patrol Lieutenant
   i. University Police Chief, Lieutenant and Assistant Vice President for Student Affairs, Bryan Hartman
   j. Tavern owners and store owners who market beer:
   k. Chris Dominiani of the Downtown Association
   l. Students – Sue Levaque and Bill Laundry volunteered to solicit some students who live in the area to come in and speak with us regarding the issues before the Commission.

C. **Development of questions for invited guests:** The group discussed the questions for the first three individuals that they would like to see come to the Commission – Rick Perry, Maurica Gilbert and Stuart Voss
   a. **Questions for Rick Perry:**
      i. What loopholes in the code need to be changed to address behavioral problems?
      ii. What are your top 3-4 items that need to be addressed in the area of zoning that relate to the behavioral issues?
iii. Lists: addresses of rental units in the city; inspections for the past year; violations for the past year; occupancy numbers for the city; and, number of rental units for the city.
iv. How often are warnings given versus actual citations?
v. What happens on an actual inspection?
vi. Would it be helpful to him to have rental unit registration?

b. Questions for Stuart Voss:

vii. Could you provide a synopsis of why we need the ordinances you drafted and what ones still need to be enacted?

c. Questions for Maurica Gildert:

viii. What can be done to protect the spread of conversions in the city?
ix. What is a grandfather clause and how does it operate and for how long?
x. What loopholes need to be closed regarding zoning?
xi. What is the definition of family under the zoning laws?
xii. From your perspective, what recommendations would help the community?

d. Generic Questions:

xiii. What is their perspective on the problem behaviors in the downtown areas?
xiv. What would they suggest to help the Commission craft their recommendations to address these problems?

xv.
Meeting adjourned at 9:15 P.M.
Notes of the City-College Commission Meeting
7 May 2007

The meeting convened at 7:00 PM in the Conference Room, City Hall Building, Plattsburgh, New York


A. Presentation by Police Chief Desmond Racicot:
   a. The Chief presented some statistics on the offenses that have transpired from 26 January to 6 May of this year in the area bordered by Oak to Beekman, Cornelia to Broad.
   b. He indicated that the department has changed its practices and has been performing activities that are on the fringe of law enforcement, i.e., those areas related to building/zoning code enforcement.
   a. He noted that people can have parties but even when they are good, trash and litter are still left behind.
   b. The chief addressed the issue of petty offense and indicated that the police have to witness it unless someone is willing to swear out a warrant and see it through. Even when someone is prosecuted for an offense, the mandatory fine for something like a noise violation ($250) can and often is drastically reduced. The defendant pays some and the rest is conditionally dismissed. This doesn’t drive home the seriousness of the violation as much as it could.
   c. The chief felt that the enforcement piece is working. They are executing the regulations and laws but that the penalty phase needs to be more stringent. He felt that monetary penalties would be the most effective and would act as a deterrent if they were serious enough.
   d. A second problem occurs when individuals are charged with more than one offense. He felt the practice of allowing the accused individual to plead guilty to one of the offenses and have the others dismissed was not effective. He felt that the individuals charged with multiple violations should stand for all of the offenses and pay fines for all of them if found guilty.
   e. The imposition of fines, just as in the cases of recovered funds from drug arrests and convictions, allowed the department to pay for the extra policing that keeps order. The lack of the fines means that the extra enforcement needed in certain situations is paid for from general tax dollars and there is less offset from the penalties. A certain level of service requires a certain level of funding.
   f. Later in the meeting after the presentations were completed, he also noted that there should be additional pressure placed on the apartment dwellings and landlords to make sure that the individuals within their units adhere to acceptable community standards.
   g. The Chief agreed to send statistics on the resolution to charges for the recent past and also agreed to work with a subcommittee of the Commission on enforcement and penalties.
h. The Chief did not feel any additional ordinances were needed from the police perspective and did not see any loopholes in the law that needed closing at this time.

B. **Presentation by Building Inspector Perry:** Building Inspector, Rick Perry made a presentation to the Commission based on the series of questions that were posed to him by the commission (See Appendix A)

   a. In addition to his written response (See Appendix B), he verbally presented several items that would improve the operation and enforcement of the zoning regulations.

   i. **Addition of a lawyer to the staff to oversee and do prosecution for violations.** At times, individuals who are charged with a violation regarding their property hire lawyers to oppose the building inspector in court. In addition to adding adjudicating power to the staff, it would free up the inspectors to do more inspections.

   ii. **The ability to run violations simultaneously is needed.** As it is, ever time there is a violation; it is a new one even if it happened at the location previously. If the new violation were to occur within a specified time of the last violation, the penalty could be more and this would make repeat offenders more attuned to preventing violations from reoccurring.

   iii. In response to the question of providing warnings versus immediately fining a person, he indicated that anyone who is cited is allowed their day in court. In addition, there is a period of time given to correct a violation before the citation takes effect or the person has to answer in court. Most times (estimated as 95%) the violation is corrected before this. If there is a large number of violations, then a civil compromise may be worked out in which the charged individual agrees to pay a certain amount for the problem and this is generally less than what the penalty might have been.

   iv. Mr. Perry also indicated that a change in scheduling of the cleaning of the areas adjacent to the streets may help alleviate some of the unsightly litter issues. **Scheduling of the cleaning of the streets should be reviewed to see if certain priority areas can be cleaned more often or on a different schedule.**

   v. Mr. Perry noted that the use of alcohol as one of the main issues to be addressed and the source of many of the problems that arise. He noted two parties that had 30 kegs and 400 cases of beer respectively. The parties involved the gatherings of large groups of people for a fee and this leads to problems (and it is also against the alcohol code if it can be established that a fee was charged).

   vi. Mr. Perry was asked about the health issues associated with large group gatherings. He indicated that there are no rules for gatherings that occur on private property with respect to the number of bathrooms required. He said that the Health Department has a definition for a mass gathering as 5000 or more. It should be noted that individuals having private parties can register with the police department but that there are no regulations involved with private parties unless they can determine that
some violation has occurred and then they may need a warrant to gain access to the premises where the party is occurring (some people just refuse to answer the door or to allow entry without a warrant).

vii. Mr. Perry also indicated that any loopholes that might be closed or regulations that might be stiffened would have to apply to the whole City. Thus there has to be public acceptance of the changes as well as ways to easy measure the violations of any new regulations.

viii. Mr. Perry clarified the rules on unrelated individuals occupying the same rental unit: only 4 unrelated individuals may live in any one unit. However, if the unit is subdivided, the number then applies to each unit. Within the RH area, no subdivision may occur without a variance but that a building could still be rented as long as no more than four individuals who are unrelated live in the building. If a building within a particular zoning has a nonconformity exemption because the conditions preexisted the change in the zoning laws, it will continue with it as long as the owner does not cease exercising the exemption for more than 12 months. If they do, then they lose the nonconformity exclusion.

ix. Mr. Perry was asked if his office would be open to having the fire department participate in doing fire inspections such as occurs in other cities. He indicated that it would be a big help to his office especially as they prepare for the opening of school.

x. He also indicated that the students many times cause certain violations within the apartment units and they are less apt to call in any violation.

xi. Finally, parking was addressed. The amount of parking was originally 1 spot per unit, then 2 and it now stands as 2 required plus one additional required. However, there is still the nonconformity exclusions for premises that are not in agreement with the new rules but predate them. There doesn’t seem to be a resolution to this problem.

xii. Mr. Perry agreed to work with the subcommittee that will examine some changes in wording to the Zoning regulations.

xiii. The issue of an inspection charge needs to be examined. At this point, there is no charge. It was noted that the police can issue citations for health and safety issues and have received cross training for this from Mr. Perry’s office. It was also noted that the Superintendent of Public Works could issue citations for certain infractions.

C. Presentation by Chris Dominiani, President of the Downtown Business Association (PDA): Mr. Dominiani addressed several issues.

a. The PDA has tried to build bridges to the College for the last two years. The latest effort resulted in the concert last week.

b. While no tavern owners are currently on the PDA, the PDA wants to try and include them in the organization.

c. He indicated that he too would like to see some changes in the codes or regulations that would make landlords more accountable for tenant behaviors and then this would make the tenants more accountable for their behaviors.
d. He did indicate that some tavern owners do things right and are mindful of the problems with over drinking and underage drinking. They have expectations for certain behaviors and the patrons adhere to those expectations.
   i. The chief responded to a question regarding “the pub crawl”. He indicated that taverns were allowed to do “specials” as long as the cost of the special is not less than 50% of the regular cost of the drink. That was the way that the Alcohol Board interpreted adherence to the alcohol laws.
   ii. One Commission member noted that the vitality of the downtown area is related to its image. Right now, it was noted, many people do not go downtown because the image is based on the many bars and the drinking that goes on. It was noted that Gainesville had started a program with tavern owners involving what is known as a hospitality covenant. More on these programs will be presented in June once the members come back from the Conference on Town-Gown Relations.
    1. The Chief noted that the College really doesn’t do anything in the downtown area and it is viewed by students as only a place to go drink. It needs to be made more than a place to drink. Mrs. Monette indicated that her research indicated that towns and cities that have been successful in making the kinds of transformations that we are discussing have included an effort to integrate the students into the city and its workings (internships).

   e. Mr. Dominianni invited the Commission to attend the next meeting of the group that was to occur at Taco Loco on Thursday morning at 8:30 A.M. (See Appendix C)

D. **Discussion of the Establishment of Subcommittees:** The Commission discussed and established three subcommittees to work on specific areas so that recommendations could be drafted as the Commission listens to individuals. The three subcommittees and their members are:
   a. **Zoning:** Sue Levaque (Chair), Karen Larkin, Pat Miranda (to be contacted by Ed Miller to see if she is willing) and possibly Maurica Gilbert (to be contacted by Ed Miller to see if she is willing).
   b. **The College and Educational Programs:** Allison Swick-Duttine (Chair), Steve Matthews, and Nancy Monette.
   c. **Enforcement and Penalties:** Bill Provost (Chair), and Steve Matthews.

E. **Discussion of the Agenda Forward and Development of Questions for Guests:** The scheduling of the future guests was discussed and questions for some of the individuals were developed.
   a. **May 14:**
      i. **Dr. Stuart Voss (7:00 P.M.):**
         2. Could you provide a synopsis of why we need the ordinances you drafted and what ones still need to be enacted?
      ii. **Mr. Edward Zukowski and Mr. Terry Meron (7:40 P.M.)**
         3. From your perspectives as landlords with many years of experience, what do you see as the issues with rentals in the City?
4. Do you find enforcement of building regulations and other codes uniform across the City?
5. What are the problems associated with writing clauses into leases such as, “no mass parties are allowed” that will allow for eviction if violated?
6. Would a reward type incentives in leases be something that landlords could pursue (for example: if the tenants in a particular unit achieved a certain GPA or helped to maintain the property in some way)?
7. Do you see any effects from maintaining a positive exterior appearance in terms of the behavior of the tenants?
8. Do you do any educational programs on move-in day (such as providing a list of numbers to call for certain problems, providing the “rules of the road” so to speak in terms of acceptable behavior in the neighborhood)?
9. Would having 12-month leases in which the tenants pay by the month be useful?
10. Would an association of landlords be beneficial to your efforts to maintain your property?

Meeting adjourned at 9:30 P.M.
Appendix A

Email to Inspector Perry From Ed Miller, 5 April 2007

Inspector Perry:
The Plattsburgh City Commission met last night and discussed the problems associated with the downtown area. At that meeting, we identified your office as one that could have significant information for our work.

I am sure you have heard many of these issues raised before regarding the behavioral and living conditions in the area bordered by Margaret, Broad, Beekman and Cornelia although the problems appear to be spreading to other parts of the city. These are not new problems. Nevertheless, the President of the College and the Mayor have empanelled the commission to take a fresh look at the issues and come up with practical solutions that may ameliorate the problems. I asked the Mayor for permission to solicit your input as well as information regarding building inspections and rental units. He indicated that it was appropriate for our group to do so.

We would like to invite you to next week’s meeting of the Commission to be held on Monday 7 May at 7 P.M. in the City Hall Conference room (Old City Court). We would like you to address the issues below in the thirty minutes that we have allotted to speak to you.

1. In your opinion, what are the top three loopholes that need to be closed in order to address problems in city rental units such that the loopholes identified create conditions that detract from the quality of living for residents near rental units?
2. What actually occurs in a typical building inspection?
3. What is the Office of Building Inspector’s policy about providing warnings versus actual assignation of fines for infractions identified during an inspection of rental units?
4. Would rental unit registration aid in the Office of Building Inspector’s efforts?
5. In your opinion, what are the top three overall problems with rental units in the city?
6. If you were the Commission, what recommendations would you make?

In addition to meeting with the Commission members, we would like hard copy of the following items for consideration:

1. Record of inspections by the Office of Building Inspector by address for the past year.
2. Record of violations cited for the past year and the resolution to the violations.
3. Listing of all rental units in the City by address.
4. Occupancy numbers for each rental unit.
5. Other pertinent data you feel would be useful for our work.

I know that time is short for getting this data and thinking about answers to our questions, but I would appreciate your help. The meetings are informal.
TO:              CENTER CITY COMMISSION
FROM:           RICK PERRY
DATE:           MAY 7, 2007
SUBJECT:        2007 COMPLAINTS FROM JAN 1ST TO MAY 7TH

The total number of complaints generated is:  273

Out of that 273 complaints generated, the total number of complaints generated for the Center City is:  113

So 42% of the total number of complaints were from the Center City

Out of that 113 the total number of complaints generated from residents is:  55

Out of that 113 total number of complaints generated from city offices:

<table>
<thead>
<tr>
<th>Department</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Dept.</td>
<td>2</td>
</tr>
<tr>
<td>Bldg Insp.</td>
<td>53</td>
</tr>
<tr>
<td>Councilors</td>
<td>1</td>
</tr>
<tr>
<td>Water Dept.</td>
<td>1</td>
</tr>
<tr>
<td>Mayor’s Office</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>58</strong></td>
</tr>
</tbody>
</table>

49% of the Center City complaints were generated from residents.

51% of the Center City complaints were generated by City offices.
1. In your opinion, what are the top three loopholes that need to be closed in order to address problems in city rental units such that the loopholes identified create conditions that detract from the quality of living for residents near rental units?

Answer:
(1) Presently the law looks at each violation as a new offense even if the violation is repeated and corrected. If nuisance type infractions can be run concurrent, then each new offense might be deemed as a continuance, then infractions that happen repeatedly are finable.

(2) Street debris is a major issue. The general appearance of a neighborhood begins with the cleanliness of the roadways. Remember the public way is typically includes the street, sidewalk and grass between. The Building Inspectors Office does not have jurisdiction. If we can associate trash cans with an occupancy we require the removal.

(3) Mass gatherings of people! Most if not all the problems associated with neighborhood appearance are due to congregations of students meeting for the intent of alcohol consumption. The most problematic time is when they leave the site in an intoxicated state. Students still congregate by invitation for a price! Does that mean? The host subsidize their living cost and habit cost by hosting large parties and charge. Does anyone really think a frat party is hosted because they enjoy having guest in their homes? No! But for $20 to purchase a wrist band which allows admission and you can be a welcomed guest.

2. What actually occurs in a typical building inspection?

Answer:
A typical housing inspection begins with a walk around the exterior of the property. Property maintenance is observed, grounds, building exterior, windows, wall covering, steps and general surroundings. The interior is then evaluated starting at the point of access and egress. All common spaces such as living rooms, kitchen and bathrooms are checked to verify for safe, clean and sanitary conditions. Private spaces such as bedrooms are then inspected also for safe, clean and sanitary conditions. The interior is checked for proper functioning smoke detection, obvious electrical violations, plumbing conditions and proper wall coverings. Inspectors verify natural light and ventilation exist as originally provided in compliance with the codes required at the time of construction or renovation.

Prior to 2007, New York State had required inspections to be conducted once every 5 years or more frequently as local conditions may permit on all 3 family units or greater. The 2007 laws now require a 3 year interval for inspections. If a property owner is listing their property for rent through the college then an annual inspection is conducted.

It should be noted that most properties are inspected during a period of vacancy; most violation type conditions tend to occur during occupancy. Students do not typically complain about conditions they have created.
3. What is the Office of Building Inspector's policy about providing warnings versus actual assignment of fines for infractions identified during an inspection of rental units?

Answer: The answer to this question lies in the remedy chapter or article of the regulation that has been violated. You will typically note that after a written notice to comply is issued by a given date, the enforcing official. If the violation continues to exist after said date then an appearance ticket is written to appear before the City Court Judge. The public perception is if a violation exist, then the violator is guilty and levied a fine by the enforcing official. This is not the case. If a violation has not been remedied by a given time, the enforcing officer issues an appearance ticket and the Judge levies the fine if proven guilty!

4. Would rental unit registration aid in the Office of Building Inspector's efforts?

Answer:
Rental registration, depending on the frequency of renewal, would help to give an enforcement presence to all qualifying properties. In order to have this effectively implement rental registration program very serious thought must be given to unique circumstances. An example being overnight guest, many student issues revolve around the number of occupants at a given location. In most cases excess occupancy is due to overnight guest. Issues that should be raised are, 1. How many guest is a residence allowed to have before their in violation? 2. How long is a guest allowed to stay before their in violation? These are issues that impact everyone and not just students. If these issues become violations remember we are all guilty of this type of infraction!

Then, remember the cost associated with such a program. At least one staff member would have a dedicated responsibility for this task. In terms of apartment turnover, most off campus student housing is vacated at the same time and reoccupies at the same time.

5. In your opinion, what are the top three overall problems with rental units in the city?

Answer:
1. Large gatherings.
2. Alcohol
3. Parking

6. If you were the Commission, what recommendations would you make?

Answer:
You have been given a very difficult task! The commission must first establish the basis for its opinion or findings, which identifies individual rights. In doing so, you may then establish if those rights are being abused. Allow me to play out a given scenario:

Rick Perry rents an apartment on Brinkerhoff St. I purchase 30 kegs of beer and charge $20 for a wrist band that would allow you to come to my apartment and drink all the beer you can. Is that my right or have I abused my rights? 200 people just participated in my wrist band sale and are here at my apartment. I think it might be a great idea if I provided them a little entertainment, so I play my stereo for the enjoyment of my guest. Right or Abuse? As my guest leave they'd like to take the beer they just were given at my house and leave with it (Remember I sold them a wrist band and gave them the beer). Right of Abuse?
Mr. Perry also provided two other handouts noting the number of beds/rental units in the City and a handout on the violations for various addresses. The violation information was summarized on the first sheet of his handouts. The rental property addresses and bed numbers are shown on the GIS map on the following pages (Please do not share this map as it is only a rough draft to show density).

A second map is included showing alcohol vending locations (taverns and stores) in the center city area. A spreadsheet of the locations of alcohol vending locations within the 12901 zip code and the code meanings are attached as separate documents. Please see the overlap between the two maps. Please note that the data and the map are from a study in 2005 for a grant submitted to the NIAA by the college.
Appendix C

Report of the Commission Chairperson on the Downtown Business Association Meeting

Numerous individuals from the Downtown Business Association were in attendance at Taco Loc on Brinkerhoff Street for the 10 May morning meeting. Chris Dominianni gave me the floor and I noted what the Commission was about and solicited ideas. I also offered that if any of them were interested in attending Commission meetings to serve as a link to their group that I would be happy to have them. The topic of behaviors was placed on the floor for consideration and the following ideas/issues were put forth.

- It was felt that underage drinking in the taverns and elsewhere was a problem. The big bashes are also a problem.
- Prohibition didn’t work so we have to look at the problem from a different angle.
- Could cabs transport students from the downtown area to campus at closing time free of charge?
- Image issues exist: we need to develop the image of downtown in the minds of the students as something other than a place for drinking.
  - Perhaps the College could get a space downtown and regularly offer classes there (Federal building when turned over is planned to have programs that involve the art department at the campus – also the meeting space in City Hall might be a good spot for meetings of the College).
  - Maybe the Student Association could be approached for more collaboration on events downtown such as the concert that was held there last week.
  - Maybe the environmental group at the College could be approached about projects focused on the downtown area.
- We need to get the students to see themselves as part of the community as opposed to separate from it.
- Whatever education program is developed, it must be repeated each semester so that all the students get it.
- It was noted that the City Judge seems to be pretty lenient with penalties and it was felt that the students need to be held more accountable. These fines could be used to fund the programs.
  - An idea was put forth that perhaps the City Court could assign students to clean up downtown as opposed to just giving them monetary fines. Perhaps the City could use the College’s system of “service” for infractions so that students given penalties in City Court could work their service hours through the College system.
  - Letters home to parents are a good idea.
  - Monetary penalties probably have different impacts depending on where the students come from.

Mr. Dominianni indicated that his group would draft a response for the Commission to consider.
Notes of the City-College Commission Meeting  
14 May 2007

The meeting convened at 7:00 PM in the Conference Room, City Hall Building, Plattsburgh, New York


Guests: Chris Jackson and Lindamarie Hill

A. Presentation by Former Councilman Stuart Voss:
   1. Dr. Voss presented a synopsis of the need for proposals on rental unit occupancy, rental unit registration and definition of family unit. He raised the need for proposals on nuisance properties and noise as well.
   2. He noted that the proposals were the work of 8-10 people over about an 18 month period. The proposals were based on the ideas of what other cities had done. The proposals that had been completed were presented to the Common Council some 6 months ago and are awaiting consideration. The City Attorney, Mr. Clute, had made comments on them. Two times, the group who made the proposals was to meet with the Common Council and there sparse attendance by the Councilmembers.
   3. Registration Proposal – Dr. Voss noted that the ordinances for rental registration exist in other cities and are very strict. The proposal that had been drafted by Plattsburgh required every rental unit to be inspected every two years or when tenants moved out. As part of this ordinance, every rental unit in the City would be registered. Currently lines of communication and ownership are vague. The proposed ordinance would clarify who owned the property and who to contact in emergency situations. A registration fee would help to support the inspections.
   4. Definition of functional Family – This proposed ordinance would have the effect of making it incumbent upon 4 or more unrelated individuals (by blood or legally) to prove that they were a functional family. This ordinance would address occupancy per unit.
   5. It was noted that in other cities that the enforcement of building code regulations was not limited to the Building Inspector’s Office. Other individuals, such as works officers, also enforced the building code.
   6. It was noted that both sides would benefit by better control of the rental unit situation. That is, less damage to the rental units and better control would enhance and sustain the investments made by the landlords. A consensus of the individuals involved in renting units as well as the individuals renting and living in the vicinity of the rental units is needed since the rental unit problems are spreading to other areas of the City.
   7. It was noted that it would be important to have the names of individuals living or supposed to be living in the rental unit would be important for emergency situations such as fires.
   8. When a rental unit meets the various ordinances and inspection process, a Certificate of Occupancy type notice would be issued and would be posted in a visible location. If a particular house did not meet the standards required by the various ordinances, the certificate would be withdrawn and the tenants would be required to move.
9. The issue of why people don’t take the 24-hour notice from the Building Inspector’s Office serious was raised.
10. The responses of the City Attorney regarding the proposals were questioned. If other Cities can have these ordinances why were the ordinances not supportable here in Plattsburgh?

B. Presentation by Mr. Edward Zukowski and Mr. Terry Meron, City Landlords:

1. The landlords were invited to address the following questions:
   
   a. From your perspectives as landlords with many years of experience, what do you see as the issues with rentals in the City?
   b. Do you find enforcement of building regulations and other codes uniform across the City?
   c. What are the problems associated with writing clauses into leases such as, “no mass parties are allowed” that will allow for eviction if violated?
   d. Would a reward type incentives in leases be something that landlords could pursue (for example: if the tenants in a particular unit achieved a certain GPA or helped to maintain the property in some way)?
   e. Do you see any effects from maintaining a positive exterior appearance in terms of the behavior of the tenants?
   f. Do you do any educational programs on move-in day (such as providing a list of numbers to call for certain problems, providing the “rules of the road” so to speak in terms of acceptable behavior in the neighborhood)?
   g. Would having 12-month leases in which the tenants pay by the month be useful?
   h. Would an association of landlords by beneficial to your efforts to maintain your property?

2. Mr. Zukowski noted that enforcement side of this needs to be made stronger. He felt that higher fines were needed. Police have to be go into a rental unit and write tickets. He noted that tenants can have landlords arrested if they enter a residence without an invitation by the tenant.

3. Eviction for destruction of property never gets through Court as a criminal issue. It is forced through civil court as a claim. This is very difficult considering the transient nature of the students and the ability to serve students who move out to other parts of the State when the semester is over. It was suggested that there should be a way to criminally charge someone who has purposefully damaged a rental unit. It was suggested that the District Attorney has the power to charge the students criminally but it would be easier and clearer if a dollar amount was established as a threshold for damages moving from a civil matter to a criminal matter.

4. It was felt that the point system as proposed would be difficult to work. It was suggested that the system might work through the College. That is if a rental unit accumulates so many points, it would not be listed as a rental property in the residence life office.
5. Mr. Meron noted that a lease is the sale of property for a limited time period. As such, there are many protections provided to the lessee. He noted that he has put a clause in his (as does Mr. Zukowski) that failing to use the property in a way that does not bother others is grounds for a conviction. He felt that this clause was more of a bluff than anything because he didn’t think that it would stand up in court.

6. The point was made that better housing doesn’t mean it wouldn’t be destroyed.

7. It was felt that the old days where more than one person occupied a bedroom is gone. The demand isn’t there and students expect a one-to-one ratio.

8. The idea of charging a fee for inspections was discussed. It was pointed out that the landlords already pay property taxes over and above what other residents pay based on their net operating amount per Schedule E of the landlord’s tax returns. They noted that the landlords make large amounts on these properties is a myth. Rental properties are only good investments if the properties are kept for many years. To add a fee over and above the property taxes seems unfair.

C. Discussion of the Agenda Forward and Development of Questions for Guests:

1. Questions for some of the individuals were developed for May 21st.

   a. **Honorable Penelope Clute (7:30 P.M.):**

      i. Of all the violations or infractions that result in appearance before your bench, what are the five most common types involving the Center City (are enclosed by the intersection of Margaret, Broad, Draper, and Cornelia) problems (relating to noise, disorderly conduct, etc.)?

      ii. Of the five most common types of violations or infractions noted in the first bullet, what are the maximum penalties for each type?

      iii. Of the five most common types of violations or infractions, what is the usual penalty if an individual is found guilty of the violation or infraction of the law?

      iv. What would you recommend to us that would result in better teamwork among the various groups that enforce the laws and ordinances?

      v. In your opinion, how could the City ordinances be improved to address the Center City problems such as noise, vandalism, property damage, etc.?

      vi. In broad terms (that is, we understand that as a judge you are called to make specific judgments for specific cases and circumstances), what is your philosophy on pleas-bargaining and Adjournment with contemplation of Dismissal or ACD as we have heard it named?

      vii. If someone receives ACD, how does the system track the individual (and who actually does it) to assure that they do not commit a new offense within the time specified under the terms of the adjournment?

   b. Questions for students:

      i. Do you feel a responsibility to the community?

      ii. What are your perceptions of the problems faced by the students in the Center City?
iii. What are the strengths of Plattsburgh that would engage you as a member of that community?
iv. What challenges do you see to becoming a member of that community?

D. Meeting adjourned at 9:15 P.M.
Notes of the City-College Commission Meeting
21 May 2007

The meeting convened at 7:30 PM in the Conference Room, City Hall Building, Plattsburgh, New York


Guests: Chris Jackson and Lindamarie Hill

A. Presentation by City Court Judge, the Honorable Penelope Clute:

1. The judge summarized her background: 5.5 years on the bench – She hears criminal cases every morning – her cases involved felonies, misdemeanors (the former get transferred to County Court) and violations. Violations and misdemeanors are resolved in City Court.
   - In 2006 there were 1,639 criminal cases, 5414 traffic violations, 1256 civil cases, 273 small claims and 193 eviction cases. The Court is open to all and everything is recorded.
2. She noted that she only sees arrests in Court so it is impossible for her to say what happens out on the street between the Police and possible violators.
3. She hears Misdemeanors, which can receive up to a year in jail; violations, which affect the quality of life and some of those can receive 15 days in jail and or a fine (no criminal record is obtained on conviction of a violation). Violations usually include: Open container, noise, underage possession, and disorderly conduct such as fights, and public urination.
4. There is always an assistant DA in Court to handle any misdemeanors or felonies. They do not handle violations: police officers or building inspectors do those.
5. Alleged violators get an appearance ticket and so when they appear in court they are there to be arraigned. The formal charges are read and a plea is entered. If jail is a possible outcome of the case, they have the right to an attorney and if they can’t afford one is appointed. For the cases of 15 days, most people waive the right to an attorney and represent themselves.
6. If at arraignment, the person pleads guilty, the judge can impose sentence immediately. A plea reduction request can be made by the person charged but they have to get the agreement of the police officer, the officer’s supervisor and the judge in order to have it work. Adjournment with Contemplation of Dismissal requires agreement of the three parties. The case is adjourned until the person can go to the police and ask for the reduction. The police approve almost no plea reductions. If the police agree, the judge almost always agrees since she doesn’t have the facts of the case, only the official charge.
7. Unlawful possession of marijuana is done differently because of the law stipulating what must happen. Possession of marijuana is one of the top five charges. The charged individual will only get ACD if they agree to substance abuse counseling. She warns individuals about pleading guilty to this since it creates a record. Unlawful possession of marijuana has no minimum fine but by law a maximum of $100.
8. In summary then, violations are plea-bargained by the police officer through the form and misdemeanors and felonies are plea bargained through the DA’s Office.

9. The Judge supplied information for the 2005 and 2006 years for the top five offenses in terms of quality of life issues (See Appendix A)

10. At this point, the judge was asked how she saw her position in fostering a community we can all be proud of - How can fines not be levied if they are mandatory? She responded that she sees her role as judge as one who listens and then if guilt is determined, she levies accountability.

11. She described the way that fines are generally levied in the case of someone who is charged with open container and under age possession: She levies the $50 fine for underage possession that is set by the State and $150 (since 2004 when the City passed the mandatory fines) for the open container set by the City. If the guilty party agrees to pay the $150 fine right away, she conditionally discharges the $50. She does this since it is difficult to get people to pay fines without going through a major process. It had been her practice to dismiss the underage charge and just go with the open container charge but stopped doing that when the police complained of the practice. There is also a $95 surcharge set by the State as a way of supporting the Court System. The State gets all of this.

12. For noise violations the first offense nets the individual a $250 fine and then the fine goes up to $1000 or 15 days in jail depending on how many times the offense has occurred. If noise is apartment to apartment in the same building then she generally suspend some of the fine since those situations seem to be very difficult to handle due to shared walls.

One issue that came up was that she doesn’t always get the any addition information with the charge since it is really just an arraignment. So if the person pleads guilty on the spot, she doesn’t have the history and only the person’s story. She indicated that it would be useful to have the history of the noise violations if it exists (i.e., the person is a repeat offender) and what the details of the violation were (i.e., how egregious was the violation). What she does to try and create some accountability and prevent recidivism is to charge the guilty party half of the fine and conditionally discharge the rest if they don’t get in trouble for 12 months.

13. Housing violations have not been heard in Court. None have come before her in over a year. She indicated that if housing violations occurred at the same address for the same violation in the time before the current ticket, that information needs to be sent with the charges. The sharing of past violations known to the police need to be made known to the Court. The judge had sent an email to the police to ask that they do this.

14. For noise violations, the amplified sound is the most common charge. There is a built in out too in that the person who lives at the location may not even be home when the noise violation occurs and therefore is exempt from the charge. There is a built-in out.

15. The judge suggested that perhaps the City should look at using section 240.45 Subsection 2 of the Penal Law. or Criminal Nuisance in the 2nd Degree to start to hold owners responsible for repeated violations of various City ordinances. She also noted that it might be useful to consider using section 240.36 of the Penal Law or Loitering for the purposes of using illegal drugs as way to clean up some locations. This will be discussed with the DA.
16. The Judge noted that she orders many community service hours. The Probation Department and S. Dunn supervise this. Each hour is equated with approximately $7. However, the weekend crew has been cut so it is difficult to assign this option to students now. It was suggested that some community service could be used for the Mayor’s Cup.

17. Attorney assignment is based on the individual’s ability to pay if they are over 17 years of age. The parent’s income, no matter how high, is not considered since it would be difficult under the current and past interpretations of the law.

B. Presentation by Mr. Joe Murphy and Alyssa Amyotte:

2. The students responded to the following questions.
   a. Do you feel a responsibility to the community?
   b. What are your perceptions of the problems faced by the students in the Center City?
   c. What are the strengths of Plattsburgh that would engage you as a member of that community?
   d. What challenges do you see to becoming a member of that community?

3. It was noted that one of the major issues that is a hurdle to individuals feeling that off-campus housing is really part of a community is the lack of yards.

4. The cost for renting is high but the alternative to it is living on campus with the strict rules. Living off campus allows you to have much more freedom and this is the draw for students. The structure and conditions allow the students to look at the off campus housing like dorms with no restrictions.

5. Landlords are not always very good at repairing things that break and then they keep your deposit anyway.

6. With noise, sometimes the students fell like they are being targeted and this is not a good way to make someone feel like part of the community. Getting to know neighbors is important but there is wariness on both parts: neighbors and students.

7. Down events may help students connect and it was thought that having classes downtown may be a very good way to integrate students. In addition, internships would also be important.

8. Freshman Experience may be used to start educating the students about “crossing the threshold to community living as adult members of the community”.

9. It was suggested that we require the completion of some form of education program before we allow students to move off campus.

10. Use Plattsport with downtown businesses included. This will get the students off campus and learning about the Downtown area.

11. We need to encourage the use of Cardinal Cash as a way to shop downtown.

12. Offer specials for college students all year long not just opening week. This will lure students to shops in the downtown area.

13. It was noted that students need a place to have parties. Having students involved in a beautification project is important to link them to the community. Adopt a street for a year was deemed a good idea in terms of getting students connected. It was suggested that a Holiday decorating competition might be a good engagement idea.

C. The Nuisance Ordinance and the College materials for the next meeting of the group were
distributed
D. Meeting adjourned at 9:45 P.M.
### Report to Common Council for the period from 01/01/05 to 12/31/05

<table>
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<tr>
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<th>Disposition</th>
<th>Fine/Sentence</th>
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Fines paid to City for Reporting Period:
- for violations of local laws and ordinances in this report $29,357.00
- total monthly revenue distribution to the City $196,078.68

(includes Traffic & Penal Law)

*Street signs are charged under two different sections depending on the incident: CPSP or Criminal Mischief—if plea is guilty it is to a reduced disorderly conduct charge.*
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Fines paid to City for Reporting Period
- for violations of local laws and ordinances in this report $38,050.00
- total monthly revenue distribution to the City $185,546.60

*street signs are charged under two different sections depending on the incident: CPSP or Criminal Mischief—if plea is guilty it is to a reduced disorderly conduct charge
Notes of the City-College Commission Meeting
4 June 2007

The meeting convened at 7:00 PM in the Conference Room, City Hall Building, Plattsburgh, New York

Present: Alyssa Amyotte, William Laundry, Susan Levaque, Edward Miller, Nancy Monette, Allison Swick-Duttine, and Steve Matthews

Guests: Chief Arlene Sabo and Assistant Chief Jerrie Lottie

2) Presentation by the SUNY Plattsburgh College Staff:
   a) The College group presented several items for the Commission to consider. Some of these were in hard copy and will not be scanned for the minutes. The list of items presented was as follows:
      i) Overview of activities that the campus does to address/ameliorate the problems associated with the behavior of students residing off-campus.
      ii) Collective assessment of problems affecting the Center City area.
      iii) Changes the campus could make to decrease or at least help to ameliorate the problems.
      iv) Changes the city could make to decrease or at least help to ameliorate the problems.
      vii) Fraternal Standards Manual.
      ix) MOU with City Police.
      x) Summary of Drug/Alcohol Infraction on campus and sanctions for those found responsible 2006 and 2005.
      xi) An Insider Guide to Off-Campus Living.
      xii) A guide to Local and State Laws for Plattsburgh students.
      xiii) Student Association Risk Management Policy.
      xiv) Be Considerate poster.

   b) An overview of the programs presented by the College was then made. The items presented were as follows:
      i) At each summer orientation session for all new students a member of the community provides a "welcome" on behalf of the citizens of Plattsburgh Since 2005.
      ii) At each summer orientation session for all new students campus community relations is a topic of discussion.
      iii) On the Saturday of "Opening Weekend" following the president's "Welcome and Matriculation" ceremony the "Address to New Students" includes the issue of campus community relations.
      iv) On the Sunday of "Opening Weekend" each floor in each residence hall hosts a floor meeting. The agenda for this meeting includes off-campus concerns.
      v) During opening week of school, off-campus students receive various materials hand delivered:
vi) Social Norming materials addressing substance abuse o Booklet- "Insider's Guide to Off-Campus Living" (Included in packet.)

vii) During opening week of school all on campus students receive an on campus version of booklet reference above. (Included in packet.)

viii) Early in the fall semester there is a joint University Police, City Police, State Police and Sheriff's department informational DWI check point set-up near campus. This is our initiative in cooperation with Clinton County Stop DWI. It is repeated in the spring.

ix) Extra police patrols both on and off-campus are funded through grant money during first few weekends of fall semester and last few weekends of spring semester. It was suggested to request that foot/bike patrols be the focus of the extra money.

x) Posters requesting students to "Be Considerate" when coming back from downtown are posted in all residence halls. (Included in packet.)

xi) Posters welcoming both PSU and CCC students to the community for posting by downtown merchants are created and duplicated by the campus. Distribution through PDA.

xii) Fire safety demonstration occurs on campus in the fall and includes City Fire Department, University Police, Clinton County Emergency Services etc. Landlords, off-campus and on-campus students invited. Hosted by a fraternity.

xiii) Fire safety presentation occurs on campus in the spring for off-campus students. Hosted by a fraternity.

xiv) College Housing office maintains off-campus housing list of available rentals which it updates in a timely manner. The college requires that any facility listed have an annual inspection for health and safety.

xv) College Housing office is also available to students to assist with landlord/tenant issue. Housing office also publishes "Off-Campus Survival Guide".

xvi) Educational programming is available for off-campus students through University Police in conjunction with City Police Department.

xvii) The college facilitates letters being sent home to parents for all students arrested in the City of Plattsburgh under the age of 21. Letter signed by the mayor.

xviii) All students under the age of 21 who are disciplined by the college (unless emancipated) have a copy of their discipline letter sent home to their parents.

xix) Our University Police make off-campus student arrest information available to the campus newspaper Cardinal Points for publication in the "Blotter". (These three were deemed important for the College to continue).

xx) This year the college hosted a holiday dinner for students and landlords living on one particular street in an attempt to further better campus community relations.

xxi) The campus has taken a new proactive approach to preventing large illegal alcoholic gatherings off campus. Facebook and My Space are scanned by the dispatcher for possible announcements of off-campus parties. Alerts to City Police Department and landlords are now the norm.

xxii) The campus continues to foster community outreach by arranging for meetings of campus officials at various times with the Mayor, the City Police Department, the City Judge, the District Attorney, etc. College officials also participate in F.A.I.R. as well as host and co-chair the Campus Community Partnership.
xxiii) The College's fraternities and sororities do a number of things that address the issue of college community relations (see attached list).

xxiv) During this discussion, the issue of assessment was raised as an important activity to pursue with regard to the various programs.

c) Fraternity/Sorority Life
i) A Training Day workshop is held the first weekend of each semester for fraternity/sorority risk management chairs and social chairs to educate about eliminating & confronting risky behaviors associated with alcohol, hazing, sexual assault and off-campus housing (fire safety) and to teach them to plan safe and responsible social events.

ii) A Training Day workshop is held each spring called "Crucial Conversations: Tools to Confront Because You Care". This workshop, open to all fraternity/sorority members, teaches participants how to confront problematic behavior caused by members of their organizations, particularly those caused by alcohol or drug abuse.

iii) The Interfraternity Council (IFC), the governance body of the SUNY-Plattsburgh fraternities, has a Fraternal Conduct Board to address behavioral problems caused by individual fraternities or fraternity men. The Inter-Sorority Association (ISA), the equivalent of IFC for sororities, has a Judicial Board for similar purposes. Both bodies will hear cases of conduct unbecoming to a member of a fraternal organization (e.g. fighting, vandalism, lewd conduct, etc.)

iv) The Fraternity/Sorority Alcohol Task Force, comprised of students, faculty and staff, has been convened to develop a plan to reduce high-risk drinking and its negative consequences among fraternity/sorority members.

v) The Center for Fraternity/Sorority Life coordinates values-based educational programming throughout the year to teach fraternity and sorority members to live in congruence with their espoused values. Topics frequently addressed include respect, civility, and civic engagement.

vi) Information about unrecognized former fraternities and sororities is sent to the parents of all students annually to discourage them from joining these groups, which have caused many problems including open parties, selling alcohol, vandalism, property destruction, and hazing.

vii) All fraternity/sorority officers sign a "Citizenship Pledge" at the beginning of each semester that includes the following statements, among others:

ix) to respect the rights of others both on and off campus;

x) to maintain or exceed the community, social and cultural standards of the surrounding community.

xi) Alpha Chi Rho Fraternity sponsors the "Meet Your Neighbors" program each semester to encourage positive interaction between students and full-time residents of the Center City area.
d) Collective Assessment of Problems Affecting the Center City Area
   i) The following are not listed in priority order:
      ii) The "Center City" has a higher density of transients, including students, than other parts of
town.
      iii) There is a lack of property management. There is no system in place to identify who is
responsible for a given rental property. This is a particular problem when the landlord is
an absentee.
      iv) Some city ordinances are difficult to enforce and need to be reviewed, updated and
retooled.
      v) There is no ordinance in place which would allow for a given property to be declared a
"Nuisance Property" with subsequent ramifications.
      vi) City police do not have the tools necessary to control large parties at off-campus houses
(e.g. - 200 people in backyard with alcohol and DJ). Even knowing who is responsible
for a given property is almost impossible.
      vii) Many landlords rent to students on a per head, per semester basis. Upshot of this practice
is that present student rental facilities will always be rented to students as no other
constituents could afford to pay rent in that manner.
      viii) Many of the problems in the "Center City" as well as elsewhere in town are fueled
by alcohol (e.g. - noise, litter, vandalism, underage drinking, etc.). Lots of college
students come to town having already developed drinking habits from middle and high
school days. The environment in Plattsburgh can be described as "Wet" with underage
individuals having high access to the product. Additionally, alcohol usage is highly
promoted both in bars and convenience stores (e.g. - drink specials, bargain prices, etc.).
In our current culture going "downtown" in Plattsburgh is synonymous with going
drinking.
      ix) The issue of lighting on several streets that have problems was raised. It noted that
tree trimming and or better lighting is needed. This should be raised in the
recommendations.
    x) The topic of surveillance cameras was discussed. It was felt that the students would
welcome the idea of surveillance cameras in certain areas of the downtown area. In
fact it was the students who requested cameras in certain locations of the campus.
There are logistical problems with the cameras: poor quality of the images at times,
legal implications for prosecution, etc. However, it was suggested that the cameras
should be tried out on an experimental basis in a few areas to see if they are practical.
This would be a possible recommendation.
    xi) The idea of a City-College Quality of Life Watch was raised and everyone thought it
should be an idea that gets put forward. It was noted that the police have some
reservations about the practice, but it may beneficial to revisit it at this time.
    xii) The idea of billing non-victims for repeated visits by City staff was raised. It is done in
other cities and the wording for it will be pursued. Chief Sabo, indicated that the
wording of such ordinances is probably on the Justice Department web site.

e) Changes the Campus could make to decrease or at least help to ameliorate the
problems.
   i) Lower the threshold for the campus to pursue off-campus conduct issues. Stretch the
"Nexus" definition to include not only felonies but also misdemeanors. Nexus is a
term that describes the ability of the College to charge a student on campus for crimes or violations for which they are convicted off-campus. If the crime or violation cannot be construed to impact the campus mission, then the legal basis for the charge on campus is not tenable. It was noted that this would be a big step for the College. In addition, the College, in certain violation cases that do impact the campus mission, will charge the student on campus for student code violations.

ii) Hold athletic teams accountable for their conduct off-campus in a way similar to other clubs and organizations. Here the team as opposed to the individuals will be held accountable. For example, if a team is deemed to have been responsible for a violation of the law, the team can be punished. Currently this is the practice for other clubs including the fraternities and sororities but not true for athletic teams. A mechanism will be developed for this approach.

iii) Withhold the services of the off-campus housing list to landlords who have any rental properties that have not been inspected in the past year.

iv) Explore the possibility of funding an "AOD Coordinator" position on campus who would work on programming related to alcohol and other drugs.

v) Identify a position on campus that could work at a minimum of half time on off-campus concerns, as well as be a point person for complaints. Also they could maintain statistics, run workshops, etc.

vi) The question of whether the campus would consider going dry was considered. It was deemed neither a logistical possibility nor one supportive of the idea of creating responsibility students. It was also felt that it would increase the likelihood of drinking off-campus as well.

vii) The idea of the College to create on-campus housing was raised. It was indicated that this was not feasible for the College to pursue. It was felt that the upper class students would not want for the most part to live on campus with the associated restrictions that would be necessary as a college facility. However, it was deemed a very good idea that we should recommend that the College actively pursue developers for off-campus housing projects where appropriate.

viii) The idea of making Broad Street a corridor for transversing from downtown to the campus was discussed. This idea was felt to have some merit and further discussion is necessary.

f) Changes the City could make to decrease or at least help to ameliorate the problems. (Some of these are already being developed by the Commission as its committees and members work – those in bold are emphasized as ideas not yet placed on the table for discussion).

i) Review city ordinances and update as appropriate.

ii) Create new city ordinances as appropriate, e.g. nuisance.

iii) City police should conduct a sting (party and or bar) at least once each academic year. This idea was deemed important since the stings are not usually done and provide another element for the enforcement of alcohol laws and ordinances.

iv) Cross train city police to be familiar with city ordinances usually enforced by the City Building Inspector's office.

v) Request the ABC Board to impose a moratorium on new bars in the city.
vi) **The idea of a party registration system was discussed.** It was noted that it is done in other cities. It was thought that this would be a way for the police to be more proactive in preventing problem parties. It was suggested that the idea may have merit but it needs to be cross-referenced to other ordinances that are proposed or already on the books.

vii) **The College will also begin to notify the City judge when it charges someone who is already a multiple offender.** This proposal has already been put forward for the City police so this is the companion piece for the College force.

g) The College statistics on charges was also provided:

Summary of Drug/Alcohol Infractions on Campus and punishments for individuals and groups found responsible 2006. The numbers in parentheses are the values for 2005.

<table>
<thead>
<tr>
<th>Sanction</th>
<th>Number of Cases with Alcohol (3.01 -3.04)</th>
<th>Number of Cases with illegal Drug (8.01-8.02)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Service Hours Given/Reprimand</td>
<td>260 (327)</td>
<td></td>
</tr>
<tr>
<td>Community Service Hours Given/Probation</td>
<td>109 (58)</td>
<td>48 (46)</td>
</tr>
<tr>
<td>Campus Privilege revoked/ Move of Hall+ Probation</td>
<td>7 (18)</td>
<td>4</td>
</tr>
<tr>
<td>Suspension</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>Alcohol Edu + Probation</td>
<td>21 (41)</td>
<td>1</td>
</tr>
<tr>
<td>Misc Edu Sanction</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>Cannot Enter Specific Building</td>
<td>(1)</td>
<td>2</td>
</tr>
</tbody>
</table>

3) **Reports**

a) **Zoning:**
A compilation of most of the ordinances that the Commission has been considering was distributed to the Chair of the Subcommittee. It was asked that the subcommittee review the contents to make sure that everything that was there was correct. It was requested that this be returned back by June 18, 2007.

b) **Education Programs**

i) **Preparation of the College recommendations will be split from one subcommittee into two:** the **College Policies Subcommittee** (Chair – Bill Laundry) per the presentation of 4 June and the **Education Committee** (Chair – Allison Swick-Duttine with Nancy Monette (and Karen Larkin) as members). The first group will flesh out the proposals made on 4 June. The second group will explore educational program suggestions that will be targeted at the behavioral problems. Both groups are expected to report back by June 25, 2007.
c) **Enforcement and Penalties**
   The work of this subcommittee was discussed. It was not apparent if anything needed to be done in this area since much of it had already been discussed. However, the question of the level of the penalties was still unexamined and may need some review.

d) **Conference Subcommittee**
   Nancy Monette and Ed Miller (along with the Chief of Plattsburgh Police, the Mayor and the President) will be attending the Conference on Town-Gown relations 7 June until 10 June. They will repost back on the 18th with ideas that feel are appropriate for the Commission to consider.

4) **The visit of Mr. Bob Benedetto was discussed.** He will be attending on the Commission meeting on June 11, 2007, at 7 P.M. to address questions that the Commission has. The meeting will take place in the Alumni Room of the Angell College Center. He will also attend a 2:00 P.M. meeting of tavern owners and storeowners that is being set-up by the Alcohol Task Force, a subgroup of the College Community Partnership (Kathleen Camelo, Jerimy Blowers, Molly Lawrence; Jessica Antonucci and Yvonne Lott are the lead folks on this activity). Members of both groups (i.e., Commission and Task Force) are encouraged to attend each others meetings.

   a) **Questions for Mr. Benedetto were reviewed.** The Chair will forward the questions to Mr. Benedetto.
      i) Can Plattsburgh pass a local ordinance for a moratorium on new licenses?
      ii) Can we pass a city ordinance on mandatory server training (TIPS)?
      iii) Can we do something through zoning to limit or reverse the high density of bars in the downtown area?
      iv) Can we pass a local “party permit” requirement to limit the number of individuals at a party where alcohol is present?
      v) Are open parties where people pay a fee to enter for something else but alcohol is self-serve legal?
      vi) What are New York’s Social Host laws and do they only apply to licenses establishments?
      vii) Can the City pass more stringent Host ordinances?
      viii) Can we ban home delivery of alcohol by non-USPS workers?
      ix) How does the license process work and do the City and neighbors get a chance to oppose or comment on the issuance of a license?
      x) How many stings on bars in the City of Plattsburgh does ABC participate?
      xi) How many stings on parties in the City of Plattsburgh does ABC participate?
      xii) How are happy hour regulations interpreted and enforced?
      xiii) What is in the works with respect to State law changes in the area of alcohol?

   b) During the conversation about the happy hour regulations the question of whether Cardinal Points takes alcohol advertising was raised. It was thought perhaps the paper should cease to take the ads. However, it was noted that the current advisor to the paper suggests that the students have free reign on the paper as individuals do at any paper. More discussion seems in order on this topic.

5) **Meeting adjourned at 9:15 P.M.**
Notes of the City-College Commission Meeting
11 June 2007

The meeting convened at 7:00 PM in the Alumni Room, Angell College Center, SUNY Plattsburgh, Plattsburgh, New York

Present: Alyssa Amyotte, William Laundry, Susan Levaque, Edward Miller, Nancy Monette, Allison Swick-Duttine, and Steve Matthews

Guests: Robert Benedetto, Jessica Antonucci, Molly Lawrence, and Chris Jackson

6) Presentation by Mr. Robert Benedetto, Senior Investigator, State Liquor Authority (SLA):

a) General Presentation:
   i) Mr. Benedetto indicated that the police are the first line of enforcement and refer items to Alcohol Control Board (ABC) at their own discretion. There are very few investigators so they encourage police to do it themselves.
   ii) The ABC Commission is composed of three members who review all of the license issues with establishments that sell alcohol all over the State. There are three type of licensees but the two that impact the problems in Plattsburgh the most are the on-premises and off-premises licensed establishments. On-premises can also sell for off-premises consumption.
   iii) ABC has two responsibilities: regulation and promotion of the alcohol industry in New York.
   iv) When a case is adjourned with contemplation of dismissal (ACD), the information gets sealed and then is unusable by the ABC investigator. He suggested that the ACD be structured so that the SLA can use the information in the file to investigate the licensee.
   v) Infractions can be criminal or administrative. The former are generally you did something and the latter are you didn’t do something you should have done. When infractions are referred to the Commission and the party is found guilty, there are nine possible outcomes:
      (1) Advisement Letter – advises licensee of potential violation
      (2) Warning Letter – adjudicated guilty and the penalty is a warning.
      (3) Bond/Claim/Civil Penalty – licensee can be fined a $1000 bond and $10,000 civil penalty in addition to other penalties imposed.
      (4) Suspension – adjudicated guilty and the licensee is temporarily suspended. This particular board is more sensitive to neighbor issues and will suspend licenses compared to previous ones.
      (5) Emergency Summary suspension – immediate suspension of a license.
      (6) Cancellation – adjudicated guilty, lose of license for some location.
      (7) Revocation – all licenses revoked.
      (8) Revocation and Proscription – in addition to (7), the location is banned form having a license for two years.
      (9) Non-renewal and recall – license renewal denied and or certificate of issuance.
   vi) Retail licenses last one or two years and then must be renewed. A notice is sent to the municipal clerk thirty days prior to the renewal date. This is a way to impact the bars since the neighbors of the bar can then raise any issues that they have had with the bar and the license may not be renewed.
Stop DWI has been providing information on “last drink” questions put to those who are arrested for DWI. When a bar shows up on that list 4 times, they are called in and asked how they will correct the problem. The bar owner is told that they will have a sting on their establishment within 180 days and if they are not doing what they said they would, they will be charged.

(a) Molly Lawrence indicated that about one-half of the answers to the “last drink” questions were private homes.

vii) The issue of having University Police supplement the City Police was raised but there was little decided on it. However, the issue of the back up with breaking up parties at private locations is in the MOU but has not be used in the recent past (>year).

viii) It was noted by Mr. Benedetto that if you are relying on enforcement to solve your problem, then the system has failed. If you saturate a problem establishment with enforcement and education then you have a chance to bring them into compliance.

ix) When asked about parties on private property where alcohol is supplied for any kind of cost – he indicated that it is against the law. He said this since sale mean: any transfer, exchange, or barter in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person of any alcoholic beverage and or warehouse receipt pertaining thereto. ABC §3.28

(1) Here the operative word is *consideration* and it is this that makes it illegal for instance to charge admission for a wristband or cup when alcohol is to be dispensed as part of the event.

x) To sell includes to solicit or receive in order to keep or expose for sale and to keep with intent to sell and shall include the delivery of any alcoholic beverage in the state. ABC §3.28

xi) He indicated that with house parties that the police are liable if they go in and disperse the party and then someone goes out and gets hurt. The police therefore are very careful when approaching such situations. He did indicate that if the City Police ask ACB for assistance, they will do a joint operation but that they had not been asked for some time.

xii) The Motor Vehicle Department has “Operation Prevent” which works hand-in-hand with ABC and focuses on forgeries or fake ids. A person can lose their license to operate a motor vehicle for 90 days if they alter their New York driver’s license for proof of age. If you have two licenses in your wallet it is also illegal. The penal law also addresses the issue of false identifications under sections 190.23, .25, 170.10 and 170.25.

xiii) The purchase of procurement of alcohol for individuals under the age of 21 is covered in section 65-a, -b, and –c.

xiv) *It was indicated that police training for alcohol code has not been done here for some time. If requested, SLA will come and do the training.*

xv) The City can establish a bar density regulation on its own and use zoning to enforce it. Some Cities have established moratoriums through the Zoning and Panning committees for a period of time in order to review the issues.

**b) Mr. Benedetto Reviewed Questions from the Commission.** The Chair will forward the questions to Mr. Benedetto.

i) Can Plattsburgh pass a local ordinance for a moratorium on new licenses? **No but it can use zoning and planning committees to control density.**

ii) Can we pass a city ordinance on mandatory server training (TIPS)? **No, it is state regulated.**
iii) Can we do something through zoning to limit or reverse the high density of bars in the downtown area? Yes **provided the Charter of the City allows for it.**
iv) Can we pass a local “party permit” requirement to limit the number of individuals at a party where alcohol is present? **Yes.**
v) Are open parties where people pay a fee to enter for something else but alcohol is self-serve legal? **No it is illegal.**
vi) What are New York’s Social Host laws and do they only apply to licenses establishments? **Criminal hosting or dram shop laws apply to commercial establishments but civil ordinances are being drafted around the state and we should look into them.**
vii) Can the City pass more stringent Host ordinances? **Yes.**
viii) Can we ban home delivery of alcohol by non-USPS workers? **No**
ix) How does the license process work and do the City and neighbors get a chance to oppose or comment on the issuance of a license? **Yes since requests for new licenses is published in the paper. Renewals can be contested but there has to be more than too many bars in one place. If it can be established that the customers of bars are causing trouble then it might be possible to fight the renewal. City Clerk has to start publishing the license renewal notices when they get them.**
x) How many stings on bars in the City of Plattsburgh does ABC participate? **Yes but they have not done a joint one with the police in over a year.**
xi) How many stings on parties in the City of Plattsburgh does ABC participate? **Don’t know.**
xii) How are happy hour regulations interpreted and enforced? **Ladies night is a violation of the Human Rights law and a different department enforces it. If a drink is less than half of its cost it is illegal. See section 117 on pricing.**
xiii) What is in the works with respect to State law changes in the area of alcohol? **Trying to close the hole in licensing as well as trying to work on licensing the different ways alcohol can be delivered (some fall outside of ABC).**

7) Meeting adjourned at 9:15 P.M.
Notes of the City-College Commission Meeting
18 June 2007

The meeting convened at 7:00 PM in the Alumni Room, Angell College Center, SUNY Plattsburgh, Plattsburgh, New York

Present: Alyssa Amyotte, William Laundry, Susan Levaque, Edward Miller, Nancy Monette, Bill Provost, and Allison Swick-Duttine

Guests: Yvonne Lott, Jerimy Blowers and Jessica Antonnuci

Discussion centered on the origin and the work of the College-Community Partnership. The work of this group was enhanced by a $12,000 seed grant from the Office of Alcohol and Substance Abuse as well as a second multi-year grant from SAMSA (Office of Mental Health) to support a framework of problem assessment, determination of capacity of the community to support solutions to problems, planning for research-based programs to address the problems and finally implementation of the programs through Partnership members.

Some good news was described. In the second CORE survey of college students, there was a 4% drop in binge drinking from the first survey that was completed three years ago. Binge drinking is defined as having more than 5 drinks in one sitting.

The Partnership has supported programs like DWI and supported other programs related to education but it has yet to tackle the environmental issues that are being discussed by the Partnership. A discussion ensued as to how to do this: i.e., through special committees or through the standing committee that currently exists inside of the Partnership.

A discussion also took place on how to make sure that the recommendations of the Commission might be supported long-term.

Many ideas were discussed but no definite conclusions were drawn at the meeting.

Meeting adjourned at 9:30 P.M.

Note Taker
Ed Miller
Notes of the City-College Commission Meeting
25 June 2007

The meeting convened at 7:30 PM in the Alumni Room, Angell College Center, SUNY Plattsburgh, Plattsburgh, New York


At this meeting the various ideas that had been learned from attendance at the Gainesville meeting as well as the ideas that Nancy Monette brought back from the Colorado meeting in 2006 were separated and a number were assigned to each member of the group for review for thirty minutes. After that time, each member presented a thumbnail sketch of the idea for the rest of the body. At the end of the presentations, the members present were given 12 first place and 12 second place votes for the 90+ concepts presented. The total votes were tallied (2 points for a first place vote and 1 point for a second place vote). The results of the voting were used in deciding the importance to assign to different parts of the Commission Report.