

THE COUNCIL OF THE CITY OF WATERVLIET

LOCAL LAW NO. 4-I FOR THE YEAR 2017

**A LOCAL LAW TO AMEND CHAPTER 176. RESIDENTIAL OCCUPANCY
OF THE CODE OF THE CITY OF WATERVLIET**

WHEREAS, it is the purpose of this Local Law to amend Chapter 176. Residential Occupancy of the Code of the City of Watervliet; and

WHEREAS, the Council of the City of Watervliet held a public hearing on April 20, 2017. Copies of the minutes of the public hearing will be available for inspection at the Office of the City Clerk of the City of Watervliet.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Watervliet as follows:

Section 1.

Chapter 176 of the Code of the City of Watervliet is hereby amended and shall read as follows:

Article I. Purpose; Title

§ 176-1 Purpose.

There is hereby adopted by the City of Watervliet, for the purpose of prescribing regulations governing rented dwelling units in one-family dwellings, two-family dwellings, and multiple dwellings in the City of Watervliet, a certain code as hereinafter set forth.

§ 176-2 Title.

This chapter shall hereinafter be known and cited as “Chapter 176. Residential Occupancy.”

Article II. General Provisions

§ 176-3 Application and availability of remedies; authority to issue regulations; severability.

- A. If a provision of this chapter is found to be inconsistent with any provision of other chapters of the City Code or Charter, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail. A greater penalty shall not be considered as more restrictive or a higher standard.
- B. The Inspector of Buildings or his or her designee shall have the authority to issue such regulations as may be necessary to implement the provisions of this Code.
- C. If any part, provision, section, subdivision, paragraph, or term of this chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining chapter, parts, provisions, sections, subdivisions, paragraphs, or terms.

§ 176-4 Definitions.

Whenever used in the chapter, unless otherwise expressly stated or unless the context or subject material requires a different meaning, the definitions as contained in the New York State Uniform Fire Prevention and Building Code shall apply to the terms and provisions herein.

DWELLING UNIT

Any single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation. Dwelling units include, but are not limited to, one-family dwellings, each unit in a two-family dwelling, and each unit in a multiple dwelling.

OWNER

A person, agent, operator, firm, association, organization, partnership, company, corporation, beneficiary, trust, trustee, and all other persons having a legal or equitable interest in the property; recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

§ 176-5 Inspection and certification required.

- A. All residential rental dwelling units shall be inspected and certified by the Building Department which shall determine compliance with, administer and enforce all applicable provisions of this chapter, the City Code, and the New York State Uniform Fire Prevention and Building Code (hereinafter "Uniform Code"). The owner, landlord, managing agent or person in possession of a rented dwelling unit(s) in a one-family dwelling, two-family dwelling or multiple dwelling shall secure from the Building Department a Rental Unit Compliance Certificate whenever the same becomes vacant or whenever there is a change in occupancy and prior to its being reoccupied indicating that said dwelling unit complies with the requirements of this chapter.
- B. Nothing contained herein shall be construed or operate to invalidate an otherwise legally effective certificate issued prior to May 1, 2017, except:
 - (1) When there is a change in the tenancy of the residential rental dwelling unit to which the certificate relates for dwelling units covered by the NYS Multiple Residence Law.
 - (2) When there is a change in the tenancy of the residential rental dwelling unit to which the certificate relates for all residential rental dwelling units not covered in § 176-5B(1).
- C. Prior to the issuance of a Rental Unit Compliance Certificate from the Building Department, the owner, landlord, managing agent or person in possession of a rented dwelling unit(s) in a one-family dwelling, two-family dwelling or multiple dwelling shall provide to the Building Department for inspection and copying a New York State driver's license or, in the alternative, any other valid form of identification that contains a photograph of the individual, current address, and date of birth. If the owner, landlord, managing agent or person in possession of a rented dwelling unit(s) is unable or unwilling to provide such identification, the Building Department shall withhold the issuance of a Rental Unit Compliance Certificate until valid identification is displayed to the Building Department.

§ 176-6 Inspection and Rental Unit Compliance Certificate; noncompliance.

- A. 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 dwelling unit without the inspection and certification required herein. It shall be the duty of the Building Department or its duly appointed agents to inspect a rented dwelling unit(s) whenever the same becomes vacant or whenever there is a change in occupancy and prior to its being reoccupied, for the purposes of determining whether or not the dwelling unit complies with the provisions of this chapter. It shall be the responsibility of the owner of the rental property to schedule an inspection with the Building Department in order to obtain a Rental Unit Compliance Certificate.
- B. If, upon inspection, said premises do not comply with all applicable provisions of this Code or the Uniform Code, the specific reasons for noncompliance shall be specified in writing and a time limit, not to exceed 30 days, shall be directed for the correction of, or the substantial effort to correct, the deficiencies noted. The notice of noncompliance shall be delivered personally or by mail within seven business days to the owner, agent or person in charge at the address set forth in the Rental Dwelling Unit Registry and to any occupant who so requests. Occupants or proposed occupants of dwellings shall have the right to inspect the Rental Unit Compliance Certificate of the residential rental dwelling unit, apartment or multiple residence in which they have an interest at no cost.

- C. On or after May 1, 2017, the Building Department shall have the right to inspect all or any part of the rented dwelling, including any unit or apartment, or entire multiple residence as required herein 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 Inspector of Buildings or his or her designee or Code Enforcement Officer, in order to enable such inspection. The officials charged with conducting the inspection pursuant to this article 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.
- E. An owner or agent may file with the Building Department a request for such inspection and the issuance of a Rental Unit Compliance Certificate by regular mail or in person at the Building Department.
- F. Nothing in this article shall be construed to limit the right of the Building Department to inspect any property at any time. If, after issuing a Rental Unit Compliance Certificate, the Building Department receives a complaint alleging a violation of this chapter or other chapter of the City Code, other than a violation that creates an imminent hazard to the public health or to the physical or mental health of the occupants of the rental property, the Building Department 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 from the date the owner or agent receives the notice to explain what steps the owner or agent is taking to correct the violation. The Building Department may take steps necessary, by inspection or other means, to assure that the violation is corrected.
- G. No Rental Unit Compliance Certificate shall be issued under this article unless the applicable fee(s) required under this chapter is paid in full to the Building Department.
- H. No Rental Unit Compliance Certificate shall be issued under this article unless the rental dwelling unit is an authorized use pursuant to Chapter 272, Zoning, and until all other applicable provisions and requirements of the Code of the City of Watervliet are complied with and met.
- I. No Rental Unit Compliance Certificate shall be issued and no inspection shall be conducted under this article unless the property is current and paid to date on its Watervliet City property taxes, including water and sewer.

§ 176-7 Fees.

- A. The fee for a Rental Unit Compliance Certificate as set forth in § 176-5 and 176-6 shall be \$40 for each inspected unit. This fee shall be paid in full prior to the inspection.
- B. Failure of an owner or agent to appear within 15 minutes of a scheduled inspection ("no show") shall result in a fee of \$25 per unit scheduled for inspection.
- C. Cancellation of a scheduled inspection less than 24 hours before that scheduled inspection ("late cancellation") shall result in a fee of \$25 per unit scheduled for inspection.
- D. Should a unit fail inspection, the initial reinspection shall be free of charge; however, each subsequent reinspection thereafter until that unit passes shall result in a reinspection fee of \$25 per unit being reinspected.

§176-8. Inspection and Residential Occupancy Permit for Single-Family Units and Two-Family Units; noncompliance.

- A. Once every three years, a fire safety and property maintenance inspection is required for all buildings containing rental dwelling units that are either single-family units or are two-family units and shall be inspected by the Building Department for compliance with the New York State Uniform Fire Prevention and Building Code, Chapter 175, Housing Standards, of the Code of the City of Watervliet, and all applicable housing standards.
- B. There shall be no fee for the inspection being performed by the Building Department.
- C. All single-family units and two-family units must meet the minimum standards for occupancy as set forth in Chapter 175, Housing Standards, of the Code of the City of Watervliet, and must comply with the New York State Fire Prevention and Building Code and all applicable housing standards.
- D. If, upon inspection, said premises do not comply with all applicable provisions of this Code or the Uniform Code, the specific reasons for noncompliance shall be specified in writing and a time limit, not to exceed 30 days, shall be directed for the correction of, or the substantial effort to correct, the

deficiencies noted. The notice of noncompliance shall be delivered personally or by mail within seven business days to the owner, agent or person in charge at the address set forth in the Rental Dwelling Unit Registry and to any occupant who so requests. Occupants or proposed occupants of dwellings shall have the right to inspect the Residential Occupancy Permit of the residential rental dwelling unit, apartment or multiple residence in which they have an interest at no cost.

- E. On or after May 1, 2017, the Building Department shall have the right to inspect all or any part of the rented dwelling, including any unit or apartment, or entire multiple residence as required herein 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 Inspector of Buildings or his or her designee or Code Enforcement Officer, in order to enable such inspection. The officials charged with conducting the inspection pursuant to this article 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.
- F. Nothing in this article shall be construed to limit the right of the Building Department to inspect any property at any time. If, after issuing a Residential Occupancy Permit, the Building Department receives a complaint alleging a violation of this chapter or other chapter of the City Code, other than a violation that creates an imminent hazard to the public health or to the physical or mental health of the occupants of the rental property, the Building Department 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 from the date the owner or agent receives the notice to explain what steps the owner or agent is taking to correct the violation. The Building Department may take steps necessary, by inspection or other means, to assure that the violation is corrected.
- G. No Residential Occupancy Permit shall be issued under this article unless the rental dwelling unit is an authorized use pursuant to Chapter 272, Zoning, and until all other applicable provisions and requirements of the Code of the City of Watervliet are complied with and met.
- H. Upon passing inspection, a Residential Occupancy Permit shall be granted. All single-family and two-family dwellings shall be required to hold a valid Residential Occupancy Permit. Such Residential Occupancy Permit shall be valid for a period of not more than three years. Before the expiration of the Residential Occupancy Permit, it shall be the responsibility of the owner of the rental property to schedule an inspection with the Building Department in order to obtain a new Residential Occupancy Permit
- I. Failure of an owner or agent to appear within 15 minutes of a scheduled inspection ("no show") shall result in a fee of \$25 per unit scheduled for inspection.
- J. Cancellation of a scheduled inspection less than 24 hours before that scheduled inspection ("late cancellation") shall result in a fee of \$25 per unit scheduled for inspection.

§176-9. Inspection and Multiple Dwelling Occupancy Permit; noncompliance.

- A. Once every three years, a fire safety and property inspection is required for all multiple dwellings, as defined in the New York State Multiple Dwelling Law, including but not limited to, all buildings containing three or more rental dwelling units, Class A multiple dwellings, and Class B multiple dwellings, and shall be inspected by the Building Department for compliance with the New York State Uniform Fire Prevention and Building Code, New York State Multiple Residence Law, Chapter 175, Housing Standards, of the Code of the City of Watervliet, and all applicable housing standards.
- B. There shall be no fee for the inspection being performed by the Building Department.
- C. All multiple dwellings must meet the minimum standards for occupancy as set forth in Chapter 175, Housing Standards, of the Code of the City of Watervliet, and must comply with the New York State Fire Prevention and Building Code, New York State Multiple Residence Law, and all applicable housing standards.
- D. If, upon inspection, said premises do not comply with all applicable provisions of this Code or the Uniform Code, the specific reasons for noncompliance shall be specified in writing and a time limit, not to exceed 30 days, shall be directed for the correction of, or the substantial effort to correct, the deficiencies noted. The notice of noncompliance shall be delivered personally or by mail within seven business days to the owner, agent or person in charge at the address set forth in the Rental Dwelling Unit Registry and to any occupant who so requests. Occupants or proposed occupants of dwellings shall have the right to inspect the Multiple Dwelling Occupancy Permit of the residential rental dwelling unit, apartment or multiple residence in which they have an interest at no cost.

- E. On or after May 1, 2017, the Building Department shall have the right to inspect all or any part of the rented dwelling, including any unit or apartment, or entire multiple residence as required herein 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 Inspector of Buildings or his or her designee or Code Enforcement Officer, in order to enable such inspection. The officials charged with conducting the inspection pursuant to this article 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.
- F. Nothing in this article shall be construed to limit the right of the Building Department to inspect any property at any time. If, after issuing a Multiple Dwelling Occupancy Permit, the Building Department receives a complaint alleging a violation of this chapter or other chapter of the City Code, other than a violation that creates an imminent hazard to the public health or to the physical or mental health of the occupants of the rental property, the Building Department 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 from the date the owner or agent receives the notice to explain what steps the owner or agent is taking to correct the violation. The Building Department may take steps necessary, by inspection or other means, to assure that the violation is corrected.
- G. No Multiple Dwelling Occupancy Permit shall be issued under this article unless the rental dwelling unit is an authorized use pursuant to Chapter 272, Zoning, and until all other applicable provisions and requirements of the Code of the City of Watervliet are complied with and met.
- H. Upon passing inspection, a Multiple Dwelling Occupancy Permit shall be granted. All multiple dwellings shall be required to hold a valid Multiple Dwelling Occupancy Permit. Such Multiple Dwelling Occupancy Permit shall be valid for a period of not more than three years. Before the expiration of the Multiple Dwelling Occupancy Permit, it shall be the responsibility of the owner of the rental property to schedule an inspection with the Building Department in order to obtain a new Multiple Dwelling Occupancy Permit.
- I. Failure of an owner or agent to appear within 15 minutes of a scheduled inspection ("no show") shall result in a fee of \$25 per unit scheduled for inspection.
- J. Cancellation of a scheduled inspection less than 24 hours before that scheduled inspection ("late cancellation") shall result in a fee of \$25 per unit scheduled for inspection.

§ 176-10. Display of certificate and permit.

Each unit shall prominently display in the public area of said structure the Rental Unit Compliance Certificate, Residential Occupancy Permit, and Multiple Dwelling Occupancy Permit as required by this article.

§ 176-11. Registration of landlords.

- A. There shall be a Rental Dwelling Unit Registry. It shall be the responsibility of all landlords within the City to register as such with the Building Department. The Inspector of Buildings or his or her designee shall promulgate regulations and procedures to effectuate said registry and make same available to the public.
- B. Within the Rental Dwelling Unit Registry shall be a provision for registration of agents. All landlords who own rental dwelling units within the City of Watervliet, but live outside of Albany County or an adjoining county, shall appoint an agent for service and register said agent with the Building Department. The agent must live or have a place of business within Albany County or an adjoining county. Service of an appearance ticket as defined in the New York State Criminal Procedure Law upon said agent for service shall constitute good and sufficient service as if the landlord had been served himself within Albany County or an adjoining county.

Article III. Administration and Compliance

§ 176-12. Title.

This article shall be known as “Article II. Administration and Compliance.”

§ 176-13. Continuation of certain preexisting conditions.

Existing conditions not in strict compliance with this chapter may be permitted to continue where the Building Department finds that the exceptions do not constitute a hazard to life, health or property.

§ 176-14. **Administrative agency.**

- A. The Building Department shall be designated to administer and secure compliance with this chapter. Said office is hereinafter referred to as "the agency."
- B. The agency shall be under the direction and charge of the Building Department, who shall have as its representatives such assistants and inspectors as may be necessary to carry out effectively the powers and duties of the agency.
- C. All personnel of the agency shall be furnished with appropriate official badges or identification cards.
- D. All personnel of the agency shall be free from personal liability for acts done in good faith in the performance of their official duties.
- E. The agency shall be charged with the duty of administering this chapter and securing compliance therewith.
- F. Where violations of Chapter 127, Building Construction and Fire Prevention, exist and pose an immediate hazard or danger to the health, safety or welfare of building occupants or of the public, the Inspector of Buildings, or his or her designee, or Code Enforcement Officer may issue an order citing the violation and directing such action by such municipal agency as is necessary to remove or abate the immediate hazard or danger.
- G. Inspectors shall be authorized and have the right, in the performance of their duties, to enter any premises in a bona fide emergency to protect the public interests and safety.
- H. Owners, agents, operators and occupants shall be responsible for providing access to all parts of the premises within their control to authorized agency personnel acting in the performance of their duties, except that the owner, agent, or person in charge thereof shall have the right to insist upon the procurement for a search warrant from a court of competent jurisdiction by the Inspector of Buildings, or his or her designee, or Code Enforcement Officer, in order to enable such inspection.
 - (1) It shall be the responsibility of the owner, agent, or operator, except where an occupant has requested an inspection then it shall be the responsibility of the occupant, to have a person of suitable age and discretion present, except in cases of emergency or where a search warrant has been secured, during an inspection of a dwelling.
 - (2) In cases where an inspection is conducted on an occupied dwelling unit, it shall be the responsibility of the owner, agent, or operator, except where an occupant has requested an inspection then it shall be the responsibility of the occupant, to remove furniture, debris, or any other barriers, to the extent practicable, away from walls, openings, outlets, and any other place that might be blocked so as to provide necessary access to the Code Enforcement Officer to conduct a thorough inspection.
- I. The agency shall keep records of all complaints received, inspections made and violations found regarding premises regulated by this chapter. Such records shall be available for public inspection.

Article IV. **Compliance**

§ 176-15. **Responsibilities of owners and occupants.**

- A. Responsibilities of owners.
 - (1) Owners of premises shall be responsible for compliance with this chapter and shall remain responsible thereof regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
 - (2) Owners of premises shall be responsible for proper maintenance, conditions and operation of service facilities and for furnishing adequate heat and hot water supply in multiple dwellings.

B. Responsibilities of occupants. Occupants of dwelling units shall be responsible for compliance with this chapter in regard to the following:

- (1) Limiting occupancy of that part of the premises which he occupies or controls to the maximum permitted by this chapter.
- (2) Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.
- (3) Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which he occupies or controls in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- (4) Keeping exits from his dwelling unit clear and unencumbered.
- (5) Disposal of garbage and refuse into provided facilities in a clean and sanitary manner.
- (6) Extermination of insects, rodents or other pests within his dwelling unit, if his unit is the only one infested in the premises.
- (7) Keeping his domestic animals and pets in an appropriate manner and under control.

§ 176-16. **Penalties for offenses.**

- A. It shall be unlawful and a violation of this chapter for any owner, landlord, managing agent or person in possession or charge of a rented dwelling unit(s) in a one-family dwelling, two-family dwelling or multiple dwelling to let or allow the occupancy of said unit without having obtained, prior to said rental, occupancy or reoccupancy, a Residential Unit Compliance Certificate as set forth in §176-5 and §176-6 of this chapter. It shall be unlawful and a violation of this chapter for the failure of any owner, landlord, managing agent or person in possession or charge of a rented single-family dwelling or two-family dwelling to obtain a Residential Occupancy Permit as set forth in §176-8 of this chapter. It shall be unlawful and a violation of this chapter for the failure of any owner, landlord, managing agent or person in possession or charge of a rented multiple dwelling to obtain a Multiple Dwelling Occupancy Permit as set forth in § 176-9 of this chapter. It shall be unlawful to fail to comply with a violation order issued by the Building Department pursuant to this chapter. Furthermore, it shall be unlawful for any occupant of a rented dwelling unit(s) to violate any of the provisions of this chapter relating to said occupancy.
- B. Upon conviction, every owner, landlord, managing agent or person in possession or charge of a rented dwelling unit(s) in a one-family dwelling, two-family dwelling or multiple dwelling who shall fail to comply with the provisions of this chapter shall be subject to a fine of \$250 or up to five days in jail or up to 50 hours of community service, or any combination thereof, for the first offense; a fine of \$500 or up to 10 days in jail or up to 100 hours of community service, or any combination thereof, for a second offense; and a fine of \$1,000 or up to 15 days in jail or up to 150 hours of community service, or any combination thereof, for a third or subsequent offense. Each day a violation continues shall be deemed a separate offense.
- C. Failure to comply with a violation order to remedy or abate shall subject the person served with the order to the penalties contained in § 127-11D of this Code for failure to comply with a lawful order of the Building Department.
- D. Upon conviction, any occupant found to be in violation of this chapter shall be subject to a fine of up to \$250 or up to five days in jail or up to 50 hours of community service, or any combination thereof. Each day that a violation continues shall be deemed a separate offense.

Section 2. Severability

If any section of this local law or the application thereof to any person, circumstance or property shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person, circumstance or property, and to this end, the provisions of each section of this local law are declared severable.

Section 3. Supersession and Repeal of other laws

All ordinances, local laws and parts thereof in conflict with the provisions of this local law are hereby repealed to the extent necessary to give this local law full force and effect.

Section 4. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

Approved as to form this 20th day of April, 2017.

Yorden C. Huban, Esq.
Corporation Counsel

Attested by the Clerk of the Council this 20th day of April, 2017.

Clerk

I hereby approve the foregoing Local Law of the Council of the City of Watervliet.

Date

Michael P. Manning
Mayor