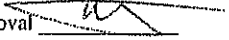


Legal Counsel Approval 

R.L 07-063

Intro. No. 007-010

Perm. No. 007-104



IN
THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Dated: April 16, 2007

Sponsored by Councilmember(s): Collins, Papastrat, Cordisco, Russo, Weslar, Gerchman,
Rennia, Kramer

Introduced by Committee(s) on: Planning

ORDINANCE
entitled

ORDINANCE TO AMEND THE CITY CODE TO
STREAMLINE LITTER VIOLATIONS ON PRIVATE
PROPERTY.

WHEREAS, pursuant to the Code of the City of Binghamton, § 265-4, *Enforcement*, the City provides notice to an owner or occupant and grants the responsible party certain time frames to remedy the violation; and

WHEREAS, the City wishes to provide more reasonable time frames and notice requirements to ensure that owners, property managers, and occupants have notice of violations and that such violations are remedied in a timely manner; and

WHEREAS, the City wishes to add "litter" to additional sections of the Code of Ordinances: and

WHEREAS, the Code of the City of Binghamton Chapter 265, HOUSING AND PROPERTY MAINTENANCE, § 265-4. *Enforcement*, sections (4) and (5) and § 265-13.H(1)(c) must be amended and restated to accomplish these goals.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. The Code of the City of Binghamton Chapter 265, *HOUSING AND PROPERTY MAINTENANCE*, § 265-4. *Enforcement*, sections (4) and (5) § 265-13.H(1)(c) are amended and restated as attached hereto.

Section 2. That this ordinance shall take effect immediately.

Amendment to the Code of the City of Binghamton Chapter 265, *HOUSING AND
PROPERTY MAINTENANCE*, §265-2, *Word usage; definitions*, "Emergency
Situation," §265-4(3), *Enforcement* and § 265-14, *Vacant property*

§265-2. *Word usage; definitions.*

EMERGENCY SITUATION -- Where the condition of a building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of occupants and/or the general public. Such conditions, include, but are not limited to, fire hazards, falling or dilapidated buildings, structures, or any part thereof, loss of significant water, heat, ventilation, or a lack of sanitary conditions.

§ 265-4. *Enforcement.*

A. Whenever the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer determines 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 or she 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 writing.

(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) In an emergency situation, the Fire Marshall, Director of Code Enforcement or a Code Enforcement Officer may cause such building, structure or any part thereof to be made safe, remedy, repair, or remove the dangerous condition without prior notice to the owner. For this purpose, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer or his/her designee may at once enter such building, structure, or land on which the violation stands, or abutting land or structure, with such assistance and at such cost as may be necessary. The Marshall, Director of Code Enforcement or a Code Enforcement Officer may order that adjacent structures be vacated and may protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a public or private way. The costs of making the building, structure, or any part thereof, safe, to remedy, repair, or remove the dangerous condition shall be a liability of the property owner, who will be billed for expenses incurred consistent with the provisions outlined in § 265-13J(2) of this chapter.

(a) Whenever the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer has determined that an emergency situation exists and causes repairs or other costs to the owner without notice, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer will give the owner written notice of the action taken and the costs thereof within three business days of the emergency situation. The owner may request a hearing before the Office of Corporation Counsel to challenge the emergency situation or the costs. The hearing shall be held within fifteen business days of receiving a written demand for the same. The rules of evidence prevailing in courts of record shall not be controlling in the hearings held pursuant to this chapter. Such decision may be appealed as an administrative decision under New York Civil Practice Laws and Rules, Article 78, within thirty (30) days of such written decision by the hearing officer.

(4) Except where major repair work is required, establish the following time limits for remedial action:

(a) In the case of high grass complaints pursuant to § 265-13H of this chapter, the responsible party shall have 48 hours to correct the violation.

(b) In the case of violations of this chapter for which specific compliance time limitations are cited, those limitations shall apply.

(c) In the case of trash, litter, or garbage violations pursuant to §265-13H(1)(c) or §265-13I(5), the responsible party shall have 24 hours of the owner, property manager, or occupant receiving notice of such violations to correct the violation.

(d) The accumulation of snow and ice on sidewalks must be removed within 24 hours after the accumulation of such snow and ice ceases.

(e) In the case of repairs that require immediate attention, but do not constitute an “emergency situation,” the owner, property manager or occupant shall have 24 hours from the date notice of such violation is received to commence work to correct, alleviate or eliminate the violation and 72 hours to reasonably complete such work.

(f) All other violations shall be repaired within five days of the owner, property manager, or occupant receiving notice of such violations except when, for good cause shown, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer grants an extension of time in writing.

(5) The notice of violation will be served upon, or sent by mail to, the owner, property manager, or occupant, as the case may require. Notice shall be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery or three days in Broome County or five days for other locations after service by first class mail to the address listed on the real property assessment, the registered property manager, if any, and to the subject real property. The City may also post violations on the City’s website to provide additional notice to owners, property managers, and occupants. However, the City’s failure to post such violations on the City’s website is not required and will not constitute a defense to any enforcement proceeding or collection of costs and expenses.

(6) Have a copy retained on file in the Code Enforcement Bureau for inspection by the owner, property manager, occupant, or the general public.

(7) 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 Code Enforcement Director shall be authorized to issue an appearance ticket for such violation, returnable in City Court.

§ 265-14. *Vacant property.*

A. The owner of a vacant building shall take such steps and perform such acts as may be required of him or her 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 Code Enforcement Bureau.

B. Failure to comply; action by Code Enforcement Bureau.

(1) Whenever the owner of a vacant building fails to comply with a notice from the Code Enforcement Bureau to take steps and perform acts as are required of him or her 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, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer may, without further notice to the owner, and pursuant to §265-4, *Enforcement*, (3) Emergency Situation, 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 removal or dangerous conditions, boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of water or 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 §265-4, *Enforcement*, (3) Emergency Situation and § 265-13J(2) of this chapter.

§ 265-13J. Maintenance of property. [Amended 7-17-2006 by Ord. No. 06-29]

(2) A bill for the expenses incurred, in addition to an administrative fee as set from time to time by the City Council, shall be presented to the owner of the property, personally or by mailing it to him or her at his or her last known address. If the owner fails to pay within 10 days, the Director of Code Enforcement shall certify to the City Treasurer the expenses incurred and the administrative fee, and the total amount of the expenses plus the administrative fee 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.

Amendment to the Code of the City of Binghamton Chapter 265, *HOUSING AND PROPERTY MAINTENANCE*, § 265-4, *Enforcement*, section (4) time limits for remedial action and (5) notice requirements and § 265-13.H(1)(c).

§ 265-4. *Enforcement.*

(4) Except where major repair work is required, establish the following time limits for remedial action:

(a) In the case of high grass complaints pursuant to § 265-13H of this chapter, the responsible party shall have 48 hours to correct the violation.

(b) In the case of violations of this chapter for which specific compliance time limitations are cited, those limitations shall apply.

(c) In the case of trash, litter, or garbage violations pursuant to §265-13H(1)(c) or §265-13I(5), the responsible party shall have 24 hours of the owner, property manager, or occupant receiving notice of such violations to correct the violation.

(d) The accumulation of snow and ice on sidewalks must be removed within 24 hours after the accumulation of such snow and ice ceases.

(e) In the case of repairs that require immediate attention, but do not constitute an “emergency situation,” the owner, property manager or occupant shall have 24 hours from the date notice of such violation is received to commence work to correct, alleviate or eliminate the violation and 72 hours to reasonably complete such work.

(f) All other violations shall be repaired within five days of the owner, property manager, or occupant receiving notice of such violations except when, for good cause shown, the Fire Marshall, Director of Code Enforcement and/or a Code Enforcement Officer grants an extension of time in writing.

(5) The notice of violation will be served upon, or sent by mail to, the owner, property manager, or occupant, as the case may require. Notice shall be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery or five days after service by first class mail to the address listed on the real property assessment, the registered property manager, if any, and to the subject real property. The City may also post violations on the City’s website to provide additional notice to owners, property managers, and occupants. However, the City’s failure to post such violations on the City’s website is not required and will not constitute a defense to any enforcement proceeding or collection of costs and expenses.

§ 265-13.H(1)(c) Yards, courts, vacant lots and grass medians shall be kept trimmed and mowed, with the height of grass and weeds being no more than 10 inches, and clean and free of physical hazards, rodent harborage, litter, 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.