

To Replace Chapter 102 subsection 102-8-A2

The premises are a public nuisance as defined by Section _____ of the city of Cortland Code, being the same definition and section as provided for in Local Law # ____ of 201_____ passed _____, 201 ____.

Chapter 102. RENTAL HOUSING

[HISTORY: Adopted by the Common Council of the City of Cortland 6-16-2009 by L.L. No. 1-2009. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 100.

Dangerous buildings — See Ch. 104.

Fair housing — See Ch. 131.

Property maintenance — See Ch. 220.

Zoning — See Ch. 300.

Article I. General Provisions

§ 102-1. Short title.

This chapter will be known as the "Cortland Rental Housing Law," and will be referred to as such in this chapter.

§ 102-2. Findings and statement of purpose.

The Common Council (Council) has determined that there exist in the City of Cortland issues arising from the rental of dwelling units that may be substandard or in violation of the New York State Uniform Fire Prevention and Building Code, the New York State Multiple Residence Law, or other state codes or local codes; dwelling units that are inadequate in size, overcrowded and dangerous, that tend to promote or encourage deterioration of the housing stock of the City, create blight, excessive vehicular traffic and parking problems and that tend to overburden municipal services. The Council finds that the City has transient residents, many of whom occupy rental housing within the City and whose members have generated a disproportionate number of complaints of public nuisances, including but not limited to noise, property damage, and property neglect; that the current Code of the City of Cortland lacks sufficient incentives for owners to regulate the conduct of their tenants; and that the City Code lacks sufficient safeguards on the population densities of rental housing. The Council further finds that current City Code provisions must be enforced to halt the proliferation of such conditions and that the public health, safety, welfare, good order and governance of the City will be enhanced by enactment of the regulations set forth in this chapter, which regulations are remedial in nature and effect.

§ 102-3. Effect on other laws.

This chapter supplements and/or incorporates the requirements contained in the New York State Uniform Fire Prevention and Building Code, the New York State Multiple Residence Law and the Zoning Law of the City of Cortland. In the event of a conflict between the aforementioned codes and this chapter, the most restrictive requirements shall prevail to the extent permitted under applicable law. This chapter is intended to supplement rather than supersede existing New York State law and the other chapters of the City Code.

§ 102-4. Scope, applicability and exceptions

- A.** The provisions of this chapter shall apply to the maintenance, repair, use and occupancy of all residential buildings and structures now in existence or hereafter constructed, rehabilitated, renovated or converted to residential use within the City of Cortland where the building or structure is being used in any capacity for rental housing, except those buildings and structures specifically excluded from the provisions of this chapter and public nuisance structures as defined herein. Any structure that was in compliance on the day previous to the adoption of this chapter will be allowed to remain, except if:
- (1) Such structure is substantially damaged by fire or other causes. In the event that the existing use is nonconforming in any respect as to this chapter or the City of Cortland Zoning Law, the rehabilitation or reconstruction of the structure shall be subject to the nonconforming use provisions of Article 13 of the City of Cortland Zoning Law;
 - (2) Any state, county or local code requires changes to existing structures.
- B.** The legal occupancy of any rental building or structure existing on the date of adoption of this chapter shall be permitted to continue without change, except such changes as are specifically required to be made to existing rental buildings or structures in this chapter, the New York State Multiple Residence Law and the New York State Uniform Fire Prevention and Building Code.
- C.** Nothing in this chapter shall be deemed to change the validity of or requirements for a certificate of occupancy under the New York State Uniform Fire Prevention and Building Code.
- D.** Exceptions. The provisions of this chapter do not apply to:
- (1) Buildings, structures and uses owned and operated by any governmental unit or governmental agency, including the State of New York, the State University College at Cortland, or the County of Cortland;
 - (2) Single-family dwellings occupied by a record titleholder;
 - (3) Two-family dwellings, with at least one dwelling unit occupied by the record titleholder;
 - (4) Transient shelters and group homes subject to state inspection;
 - (5) Residential structures of which ownership passes to a governmental unit;
 - (6) Hotels or motels;
 - (7) Tourist homes or bed-and-breakfast dwellings; and
 - (8) Nursing homes, intermediate-care nursing homes or convalescent dwellings.

E. Where a nonresidential business or activity or a state-licensed or state-approved use occupies a portion of a building and the building contains premises which would otherwise be subject to this chapter, this chapter shall be and remain applicable to the residential and common or public areas of such building and premises.

§ 102-5. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings and shall be so construed wherever they appear in this chapter.

APPROPRIATE AUTHORITY

The Code Enforcement Office.

BED-AND-BREAKFAST or TOURIST HOME

A single-family dwelling occupied and used by the owner of such dwelling as his/her principal residence, and within such dwelling unit there are not more than four accessory guest rooms whose occupants' stay shall not exceed seven days and for which a morning meal only is provided.

BEDROOM

Any room or space used or intended to be used for sleeping purposes.

CIVIL PENALTY

A penalty levied by the Code Enforcement Officer against an existing permittee in accordance with this chapter.

CODE ENFORCEMENT OFFICE

The division within the City charged with the duty to inspect dwelling units, rooming houses, rooming units, premises and structures for compliance with this chapter, and may also mean, as the context indicates, a member of that division.

CODE ENFORCEMENT OFFICER

The person designated by the Mayor or Common Council to issue permits pursuant to the New York State General City Law, the administrator of the Code Enforcement Office or his/her designee. Nothing herein shall be deemed to require the Mayor or Common Council to delegate permitting authority to the Code Enforcement Officer. The designated officer shall be the authorized representative for the enforcement of this chapter and for the administration of the division.

CODE OFFICIAL

Also referenced as the Code Enforcement Officer, the person appointed by the Mayor or Common Council pursuant to the New York State General City Law to issue permits; and the person charged with the administration and enforcement of this chapter, or any duly authorized representative thereof.

COMMON AREAS

The areas within a two-family or multiple dwelling that is available for common use by all tenants of all dwelling units. Examples include but not limited to:

- Lobbies
- Corridors
- Stairways
- Washing machines and laundry rooms
- Roof
- Elevators
- Washrooms in lobby areas
- Storerooms
- Basements
- Attic

DWELLING UNIT

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EXTERIOR PROPERTY

The open space on the premises and on adjoining property under the control of owners or operators of such premises.

HABITABLE SPACE

Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility space and similar areas are not considered habitable spaces.

MULTIPLE DWELLING

Any building containing more than two dwelling units or rooming units.

OWNER

The record titleholder or contract purchaser, property manager, tenant under a recorded lease or any executor, administrator, trustee, conservator or other fiduciary, mortgagee or lien holder thereof; an agent for the receipt of notice, legal process or other service or any individual acting in a fiduciary capacity for the record titleholder or contract purchaser.

OWNER'S AGENT

Any person, company, corporation or other entity that has the authority to act on behalf of or in the place of the owner.

PERMITTEE

An owner who has been issued a rental permit within the preceding 36 months.

PERSON

Any natural person and any entity that is recognized by law as having the rights and obligations of a natural person.

RECORD TITLEHOLDER

Any person holding title of record by deed, contract of sale, or judicial determination.

REGISTERED COMPLAINT

Any oral or written communication or personal observation upon which the Code Enforcement Officer has probable cause to believe that additional investigation is required to verify compliance with this chapter.

RENTAL AGREEMENT

A written or oral agreement embodying and fixing the terms and conditions for the transfer of possession and the use and occupancy of premises, whether or not for a definite period of time.

RENTAL BUILDINGS AND STRUCTURES

A. Dwelling units, rooming houses, rooming units, two-family dwellings, or multiple dwellings which are occupied by one or more persons, none of whom is a record titleholder; or

B. Dwelling units, rooming houses, rooming units, two-family dwellings, or multiple dwellings which are used for residential purposes under the terms of a rental agreement.

ROOMING/BOARDING HOUSE

Dwelling providing lodging and meals for monetary compensation for three or more nontransient guests. No private kitchen facilities shall be provided to guests.

ROOMING UNIT

Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

TENANT

A person, corporation, partnership or group, not the legal owner of record, occupying a dwelling unit or portion thereof as a unit.

TWO-FAMILY DWELLING

A building of two dwelling units, separated by common walls and/or floors. It may or may not have a direct entrance from the outside to each dwelling unit.

Article II. Administration and Enforcement

§ 102-6. Inspections; issuance of notices.

A. For purposes of the Rental Permit Law, the Code Enforcement Office shall cause inspections to be made at intervals as follows:

- (1) If requested in writing by the owner or owner's agent of a rental building(s) or structure(s) pursuant to Section 102-11(C) of this Chapter, then prior to issuance of a permit or renewal of a permit pursuant to this Chapter;
- (2) Upon receipt of a registered complaint; or
- (3) At the discretion of the Code Enforcement Office at an interval of less than three years for a property(s) where there are persistent or consistent violations of this chapter or other laws, rules and regulations of the City of Cortland, County of Cortland or the State of New York; or
- (4) Otherwise in accordance with law [*for alternative: Not to exceed every three years.*].

B. The inspection by the Code Enforcement Office shall determine the condition of rental buildings and structures, rooming houses, rooming units, similar dwellings and accessory structures located within the City of Cortland, and the Code Enforcement Office may issue notices as provided for in this chapter.

C. The Code Enforcement Officer or his/her designees are authorized to enter Common Areas at reasonable times for the purposes of conducting a visual inspection. If entry is refused or not obtained, the Code Official is authorized to pursue entry to the fullest extent authorized by law.

D. Application of this section is subject to the limitations contained in § 102-15.

§ 102-7. Prohibited acts and Required Actions

A. In addition to the requirements of § 102-10, violations of the following shall be deemed violations of the Rental Housing Law:

(1.) It shall be unlawful and a violation of this chapter for any owner of a rental building or structure to lease, let, rent or permit the occupancy and use as a rental building or structure without first having obtained a rental permit as provided herein.

(2.) It shall be unlawful and a violation of this Chapter for any owner of a rental building or structure to provide materially false, misleading, or inaccurate information on any form submitted pursuant to this Chapter.

(3.) No person shall disable a carbon monoxide or smoke detection device in violation of § 102-27 of this chapter.

(4.) No owner shall, following reasonable notice and an adequate opportunity to correct the same, fail to correct a serious fire hazard or electrical violation or fail to provide heat for a residential building or structure in accordance with legal requirements.

- B. It shall be the responsibility of the owner to install working single-station smoke detectors and carbon monoxide detectors within their respective dwelling units, and it shall be the responsibility of the tenant to ensure that the smoke detectors and carbon monoxide detectors remain in working order throughout the lease term. In the event that a smoke detector or carbon monoxide detector becomes inoperable, the tenant shall inform the owner, and the owner shall immediately replace the inoperable smoke detector or carbon monoxide detector.

§ 102-8. Grounds for revocation or nonrenewal of permit.

- A. The following findings, upon substantial evidence and which shall be made in accordance with Sections 102-13 of this Chapter, shall be grounds for revocation or nonrenewal of a rental permit for the particular rental building or structure at issue:

- (1) The owner is a habitual violator as described in § 102-29;
- (2) The premises are a public nuisance property as described in the City of Cortland Code and any amendments or revisions made thereto; or
- (3) Three or more violations of this chapter have occurred either at a particular rental building or structure within a twelve-month period, and the owner failed to correct such violations within the time period given by notice and/or has been required to appear before a court of competent jurisdiction for such failure(s), and the owner was found by the Code Enforcement Office, court, or Zoning Board of Appeals, where applicable, to have failed to correct the violations without good cause; or
- (4) The owner, owner's agent, or anyone providing information on owner's behalf hereunder, provided materially false, misleading, or inaccurate information on any form submitted pursuant to this Chapter.
- (5) Unpaid fees imposed by the provisions of this Chapter.

- B. Before a rental permit may be revoked or issuance or renewal denied, except in cases of emergencies, a notice of the violation(s) shall be sent pursuant to Section 102-13, and the permittee or aggrieved person shall be entitled to a hearing before the Zoning Board of Appeals, which shall have appellate jurisdiction with regard to findings of fact upon which the Code Enforcement Officer has issued his or her decision. Written notice of the hearing shall be mailed to the permittee or served upon the aggrieved person no less than seven days in advance and shall apprise the recipient of the proceedings and potential consequences and the aggrieved person's right to be heard. At the hearing, the aggrieved person shall be entitled to be again apprised of the claims against him or her, must be given an opportunity to be heard in explanation or rebuttal, and shall have the right to confront witnesses. Determinations of the Zoning Board must be based upon substantial evidence and must incorporate the factual findings in the record as the bases for their determination. Prior convictions of offenses under this chapter from a court of competent jurisdiction shall be conclusive evidence of the violation(s) upon which such conviction was based. The Zoning Board, for good cause shown, may stay the enforcement of any revocation for such period as it deems appropriate. Persons seeking relief from applicable provisions of the New York State Uniform Fire Prevention and

Building Code may file a petition with the New York State Department of State Codes Division Board of Review for variance and/or an appeal of the Code Official's determination.

Article III. Dwelling Inspection and Rental Certification

§ 102-9. Required owner/agent information.

- A.** Owners of residential rental property located in the City of Cortland shall complete and sign a registration form provided by the Code Enforcement Office for each rental building and/or structure owned. If the owner owns more than one rental building or structure, separate forms must be completed for each separate rental building and/or structure. The form shall indicate the name, physical address, and telephone number of each and every owner; the number and address of the rental building or structure for which a rental permit is sought, the number of dwelling units contained within each rental building or structure, whether the premises are governed by a written lease or an oral lease, daytime and evening telephone numbers of the owner or owner's agent, the square footage of habitable space in each rental dwelling unit, the maximum number of tenants in each and every rental dwelling unit, any pre-existing non-conforming status, and any other pertinent data sought by the Code Enforcement Officer. The owner shall sign a statement affirming whether a written lease is in effect and, if applicable, that the written lease contains a notice provision pursuant to § 102-19 of this chapter. The form shall indicate an address for receipt of notices by mailing under this chapter. The permittee shall be responsible for updating such information within five business days of an event or a change in circumstances that would render the information in the registration form inaccurate.
- B.** Owners of residential rental property located in the City of Cortland who reside in any county other than Cortland County shall provide the Code Enforcement Office with the name and physical address of an individual over the age of 18 who shall reside in Cortland County and who shall be designated as agent for receiving mailed notice or service of process. Such agent shall be deemed to have the rights and responsibilities of a permittee for the purposes of this chapter. A new permittee shall provide the information required in this subsection within five days from the date of any change of ownership.
- C.** Owners shall provide current contact information to the Code Enforcement Officer within 30 days of changing their address.

§ 102-10. Rental permit required; occupancy limitations.

- A.** No owner shall rent, let, lease, or otherwise allow the occupancy of any existing rental building or structure unless that owner holds a valid rental permit for said rental building or structure. For owners of more than one rental building or structure, separate rental permits are required for each rental building or structure. No violations of this subsection shall issue before one year after the effective date of this chapter. In the event that the Code Enforcement Officer is unable to inspect all rental properties, for which the owners thereof have requested an inspection, within one year from the effective date of this chapter and issue the required rental permit, then every owner of such an existing rental building or structure (that requested an inspection) shall provide all information listed in § 102-16A through I of this chapter, and any

other information required pursuant to this chapter in order to obtain a rental permit hereunder, to the maximum extent possible, to the Code Enforcement Officer who will then issue a temporary rental permit which said permit shall be effective until such point as an inspection can be completed by the Code Enforcement Officer, or the owner submits a notarized self-certification form pursuant to Section 102-11(C), and a permanent rental permit issued.

- B. Occupancy limitations shall be governed by the rules and regulations contained in Chapter 300 of the Code of the City of Cortland, known as the City of Cortland Zoning Code, and any amendments made thereto.

§ 102-11. Fees; duration of permits; issuance of permits.

- A. Rental inspection fees and reinspection fees will be charged in the amount set forth in the schedule of fees adopted by the City of Cortland Common Council by resolution.
- B. Rental permits will be issued for a thirty-six-month period and shall be valid for such period unless invalidated or revoked as provided in this chapter.
- C. Permits shall be issued upon completion of all of the following:
- (1) Provision of all the information required in the registration form pursuant to Section 102-9; and
 - (2) Verification of compliance with this chapter through one of the following methods:
 - a. Completion and submission of a self-certification form by the owner, certifying under oath and subject to perjury that said rental building or structure, and all dwelling units contained therein, are in compliance with all applicable City and State Codes, Statutes, Laws Ordinances and regulations, pursuant to Section 10s2-12(B); or
 - b. Performance of an inspection, at the written request of the owner, by the Code Enforcement Office to determine compliance with this chapter pursuant to Section 102-12(A), with all such inspections to be performed pursuant to Section 102-15; and
 - (3) All requirements of this chapter have been met.
- D. Newly constructed or renovated rental structures will be required to pay a registration fee in the amount set forth in the schedule of fees adopted by the Common Council by resolution when the rental permit is issued. This registration fee must be paid prior to the issuance of a certificate of occupancy.

§ 102-12. Procedure for inspections and self-certification.

- A. If the owner desires an inspection to verify compliance with this Chapter as set forth in Section 102-11(C)(2)(b) above, the following shall apply:

(1) At least thirty days prior to initial occupancy, or thirty days prior to the expiration date of a current rental permit, whichever is applicable, the owner or agent of a rental property shall apply to the Code Enforcement Office for inspection of the structure and all units therein. The owner of the property shall be required to sign and return the application along with the applicable fee, which will also include the registration form required by § 102-9A of this chapter.

(2) The Code Enforcement Officer shall inspect the property subject to the requirements set forth in § 102-15. If the property is in compliance with this chapter, the permit will be issued.

B. If the owner prefers to verify compliance with this Chapter as set forth in Section 102-11(C)(2)(a) above, the following shall apply:

(1) The form for self-certification shall be made available by the Code Enforcement Officer and shall be completed, signed and notarized by the record titleholder(s) under penalties of perjury.

(2) Any owner that provides materially false or misleading information on the self-certification form shall be in violation of this chapter as set forth in Section 102-8 and shall also be subject to the penalties of perjury in addition to the penalties found in § 102-24 of this chapter.

§ 102-13. Notice of violation; method of service.

If the Code Enforcement Officer determines that there are reasonable grounds to believe that premises are being maintained in violation of this chapter, that officer shall give notice of the alleged violation to the owner or owner's agent of the premises, which notice shall contain the elements required of an information under the New York State Criminal Procedure Law. Such notice shall:

A. Be in writing;

B. Include a description of the real estate sufficient for identification;

C. Describe the violation, cite the applicable section of the local law and/or uniform code, and remedial action required;

D. Describe the facts upon which the violation is based;

E. State that all health, safety and maintenance violations must be corrected immediately. The Code Enforcement Officer shall return at a specified date to verify conformance with the order to remedy. Any maintenance items which cannot be completed at this time because of weather constraints may be granted a time extension. Reasonable time extensions may be granted by the Code Enforcement Office based on consideration of all relevant factors.

F. State that, if upon reinspection a violation still exists, the Code Enforcement Officer shall order that the rental permit be suspended and the structure vacated.

G. Be mailed via first-class, registered or certified mail to the permittee or served upon any other person in accordance with the applicable provisions of the Criminal Procedure Law.

II. State the time to file an appeal, the amount of the appeal fee, the right to call witnesses and the right to be represented by counsel.

§ 102-14. Complaint by tenants; retaliatory actions.

A. Unless there are significant health or safety issues, if the property has a valid rental permit, a tenant must first complain to the owner or agent of the property. Forms for that purpose may be obtained from the Code Enforcement Office; however, there is no obligation for a tenant to use such forms.

B. If the complaint is not addressed within seven calendar days, the tenant may schedule an inspection appointment with the Code Enforcement Officer, who shall give reasonable advance notice to the owner's agent. If violations are found, an inspection fee in accordance with § 102-11 shall be charged.

C. No person shall institute or maintain an action for eviction because the occupant has reported a violation of this chapter or a related provision of the City Code to the Code Enforcement Officer or other City employee.

D. No person shall cause any service, facility, equipment or utility required under this chapter to be removed, shut off or discontinued in retaliation for a complaint.

§ 102-15. Application for search or administrative warrant authorized.

A. The Code Enforcement Officer shall have the right to inspect the Common Areas of a two-family dwelling or multiple dwelling upon either: (1) the consent of a person in lawful possession of either the dwelling or a dwelling unit therein and who has permission to access the area in question pursuant to his or her lease, (2) the consent of the owner of the dwelling, or (3) upon the procurement of an administrative search warrant from a court of competent jurisdiction to enable such inspection.

B. The Code Enforcement Officer shall have the right to inspect a dwelling unit in any rental building or structure upon either (1) the consent of the person in lawful possession of that dwelling unit sought to be inspected and the consent of the owner, or (2) upon the procurement of an administrative search warrant from a court of competent jurisdiction to enable such inspection.

C. The Code Enforcement Officer is authorized, on sworn affidavit stating the factual basis thereof, to make application to the City of Cortland Court or to such other court as may be deemed appropriate for the issuance of an administrative search warrant. The application for a search or administrative warrant shall, in all respects, comply with applicable laws of the State of New York and the United States.

§ 102-16. Contents of rental permit.

The rental permit issued under this chapter shall contain the following information:

- A. The address, type of structure, and structure classification;
- B. The date of inspection or date of self-certification statement, whichever is applicable;
- C. The date of issuance;
- D. The expiration date;
- E. Number of dwelling units;
- F. A statement indicating whether the structure is equipped with a fire alarm system, single station smoke detectors, and carbon monoxide detectors as required by the Code.
- G. A statement indicating whether the structure is equipped with a sprinkler system;
- H. Local contact information including name, address and phone number for the owner or owner's designated representative; and
- I. The maximum number of occupants permitted for each and every rental dwelling unit. Such number must be posted in a conspicuous place within each dwelling unit.

§ 102-17. Transferability of permit; display of permit required.

A current rental permit issued under this chapter shall be invalidated by sale or transfer of the property. The owner of a rental building or structure shall conspicuously display a copy of the rental permit on the main entrance door of each building, or in a common area immediately adjacent thereto.

§ 102-18. Notices on sale of dwelling; unpaid fines.

- A. A seller of a rental property, including property occupied under authority of an unrecorded contract for sale, shall inform the prospective buyer of the following at least fourteen days prior to the closing:
 - (1) Current status of the rental permit;
 - (2) Any outstanding notice regarding violations of the Cortland Rental Housing Law;
 - (3) The existence of any court or administrative proceeding which pertains to alleged violations of the Cortland Rental Housing Law, stating the case numbers and names of all parties to the proceedings.
- B. Every seller of a rental property shall give notice in writing to the Code Enforcement Office within two business days after closing. This notice shall include the name and address of the buyer.

- C. Each buyer of an interest in rental property shall give notice in writing to the Code Enforcement Officer within ten business days after closing. The notice shall identify the address of the affected property, the name and address of all parties named in the contract, and the interests in the property conveyed or received by each party. The buyer shall also provide a copy of the deed, showing the date, book, and page within ten days of recording.
- D. Any unpaid fines shall run with the land and become a lien against real property and shall be enforceable against the subsequent owner of the property.

§ 102-19. Notice to tenants.

All written rental agreements for rental buildings or structures within the City of Cortland must contain the following language in 10-point or larger type: "Please take notice that you and the landlord each have certain rights and responsibilities under The City of Cortland Rental Housing Law, a copy of which is available in the City Hall, 25 Court Street, Cortland, New York 13045."

§ 102-20. Transition rules.

- A. None of the rules in this § 102-20 shall be extended beyond the transition period except by resolution of the Common Council.
- B. Owners of rental buildings or structures existing on the date of adoption of this chapter or existing hereafter must register within one year from the effective date of this chapter in accordance with Article III. Upon receipt of a completed registration form, the Code Enforcement Officer will review the form and if, on this basis, the premises appear to be substantially in compliance with the requirements of this chapter, shall issue a temporary rental permit.
- C. The temporary rental permit shall be effective until the first of the following has occurred:
- (1) One year shall have elapsed from the date of issuance of the temporary rental permit;
 - (2) The Code Enforcement Officer has inspected the rental building or structure and has issued a rental permit as a result of such inspection, or the owner submits a notarized self-certification form pursuant to Section 102-11(C);
 - (3) The Code Enforcement Officer has inspected the premises and has served upon the owner a written denial, setting forth the bases therefor; or
 - (4) The City of Cortland has revoked the temporary rental permit for cause pursuant to § 102-8.
- D. No holder of a temporary rental permit shall be liable for failure to register in accordance with § 102-9 until one year from the effective date of this chapter.
- E. No owner shall be liable for renting premises in violation of this chapter under the terms of a written lease that was in effect at the date of enactment, provided that the lease and the

occupancy complied with applicable law in existence prior to such date. This exception shall not apply to renewals of existing leases.

Article IV. Penalties for Offenses

§ 102-21. Failure to correct violations.

A. Any person who fails to correct a violation of this chapter upon receipt of a notice of violation shall be guilty of an offense and shall be subject to fines or civil penalties which shall be cumulative for each and every week that the violation remains uncorrected.

B. Offenses.

- (1) Each day the owner fails to arrange for an inspection beyond fifteen days after service of such notice;
- (2) Each violation not corrected within a reasonable time following receipt of a notice of violation;

C. Penalties.

- (1) Failure to arrange for a timely reinspection shall give rise to a presumption that the violation was not corrected and a fine shall be imposed accordingly;
- (2) Violations not corrected in the allotted time shall be subject to a fine or civil penalty, which fine or civil penalty shall not exceed the maximum set forth in the New York State Executive Law for violations of state code; and not to exceed the maximum set forth in the City of Cortland Code for violations of this chapter, retroactive to the original date set forth in the violation notice. A cumulative civil penalty may be imposed for each and every week or portion thereof that the violation continues, to the maximum extent permitted by law. Enforcement proceedings shall be in accordance with § 102-24 of this chapter.

§ 102-22. Actions to enjoin and to collect costs.

In addition to the penalties provided in this chapter, when any dwelling, building or structure is constructed, altered, converted, used or maintained in violation of any section of this chapter, the City of Cortland may bring suit in an appropriate court of competent jurisdiction to:

- A. Prevent unlawful construction, alteration, conversion, or maintenance;
- B. Restrain, correct, or abate such violation or nuisance;
- C. Prevent the occupation of the dwelling, building or structure;
- D. Prevent any other violation of this chapter; and
- E. Obtain a judgment for costs and expenses to enforce this chapter.

§ 102-23. Assessment of costs.

All inspection fees, reinspection fees, demolition costs, administrative costs and legal costs incurred by the Code Enforcement Office or City of Cortland in the enforcement of this chapter may be collected by an assessment or levy placed against the real estate, to be collected as a property tax or by judgment entered against the owner personally or against the real estate.

§ 102-24. Offenses; penalties.

A. Any person who is found by a court of competent jurisdiction to have violated this chapter shall be guilty of an offense pursuant to the New York State Uniform Fire Prevention and Building Code and any amendments or changes thereto, and shall be subject to the maximum penalties authorized therein. Any such person who violates a section of this chapter after having previously been found guilty of violating the same section of this chapter at the same location shall be guilty of a repeat offense.

B. Relief under this section shall be in addition to the remedies set forth in §§ 102-22 and 102-23.

C. Each and every day in which an offense occurs, after notice has been provided, shall be deemed a separate offense.

Article V. Appeals

§ 102-25. Zoning Board of Appeals; filing of notice.

Appeals by an aggrieved person of any determination or action of a Code Enforcement Officer may be taken to the City of Cortland Zoning Board of Appeals pursuant to Article 5-A of the General City Law of New York State. A notice of appeal shall be filed with the Code Enforcement Officer within 15 days of the date of service of the notice of violation.

§ 102-26. Variances.

A. Any owner of rental property in the City of Cortland may apply to the Zoning Board of Appeals for a variance, on a temporary or permanent basis, from the requirements of this chapter. Such variance shall be granted upon a showing by the owner by clear and convincing evidence as follows:

- (1) That this chapter creates a unique hardship to the applicant that is different than other owners of rental property in the City of Cortland who are similarly situated; and
- (2) That the granting of a variance will not undermine the purpose and intent of this chapter; and
- (3) That the granting of a variance will not adversely affect the health, safety and welfare of neighboring property owners; and

- (4) That the granting of a variance will not adversely affect the character of the neighborhood and that the variance, if granted, will have minimal impacts on the neighborhood and adjacent property owners.
- B. In granting any variance, the Zoning Board of Appeals shall grant the minimum variance necessary to alleviate the hardship demonstrated by the applicant.
- C. Any owner that receives a variance from this chapter must maintain its property in compliance with all laws, rules and regulations of any governmental entity having jurisdiction over such property. If an owner fails to comply with this section, then the Zoning Board of Appeals may revoke the variance previously granted subject to notice and an opportunity to be heard by the owner.

Article VI. Additional Provisions

§ 102-27. Carbon monoxide detection devices.

- A. For the purposes of this section, fossil fuel shall include coal, natural gas, kerosene, oil, and propane.
- B. All rental buildings and structures shall have no less than one approved carbon monoxide detector installed in each dwelling unit if the residential building or structure contains a fossil-fuel-powered appliance, wood-powered appliance or fireplace which is within the interior of the building or structure. The detector shall be installed within 15 feet outside the area of all sleeping rooms and in accordance with the manufacturer's specifications for installation.
- C. Every approved carbon monoxide detector shall comply with all applicable state laws and regulations, as set forth in the New York State Executive Law § 378 or its equivalent.
- D. It shall be unlawful for any person to, in any way, make inoperable a carbon monoxide detector required under this chapter, except that this provision shall not apply to any building owner, manager, and/or agent in the normal procedure of maintenance, including replacement of batteries.
- E. The owner shall be solely responsible for the installation of the carbon monoxide detectors. The owner shall immediately, upon notice from the tenant, repair or replace the carbon monoxide detector as necessary.
- F. The tenant shall be responsible for informing the owner of any carbon monoxide detector malfunction and shall be responsible for replacing batteries as needed.
- G. The owner shall furnish to the tenant at the beginning of a new lease or new tenancy, if applicable, written notice of the responsibilities of the tenant and the obligations of the owner regarding carbon monoxide detectors, their batteries and their maintenance. New batteries shall be installed in rental units when leased, and the same shall be noted on the lease agreement signed by both the owner and the tenant.

§ 102-28. Emergency actions.

- A.** Whenever a Code Enforcement Officer has probable cause to believe that a condition exists in or around a rental building or structure which constitutes an immediate and severe threat to the health, safety or welfare of the occupants or to the public, the officer may take any necessary action, including the temporary suspension of a rental permit. The Code Enforcement Officer shall serve upon the owner a written order incorporating the factual finding upon which the emergency action is based, without a prior hearing, such suspension to be effective on the date specified in the order.
- B.** Whenever a Code Enforcement Officer has probable cause to believe that a condition exists in or around a rental building or structure which threatens the health, safety or welfare of the occupants or the public, the officer may issue an order describing the condition and requiring that specified action be taken. If the owner does not comply with the order within the time specified, the officer may authorize the taking of the action specified in the order. Any costs incurred may be assessed against the property or collected as a personal judgment pursuant to valid legal action.
- C.** A copy of the order shall be sent to an agent or owner, and occupant(s), at their last known addresses. The method by which such notice shall be given shall be that method which provides notice within the shortest practicable period of time.

§ 102-29. Habitual violators.

- A.** A permittee who fails to correct a violation within the time period given by notice, or an owner who has been required to appear before a court of competent jurisdiction for such failure, three times for the same rental building or structure or on three separate properties during a twelve-month period may be deemed a habitual violator if found by the Code Enforcement Officer, court, or Zoning Board of Appeals, where applicable, to have failed to correct the violations without good cause. Upon finding that a permittee is a habitual violator, an agent or representative of such owner shall be deemed a habitual violator as to those properties.
- B.** A finding that an owner is a habitual violator shall be a basis for a court of competent jurisdiction to find probable cause for the issuance of an administrative search warrant for all properties owned or managed by a habitual violator. The fee for this unified inspection will be charged at regular inspection rates as set forth in § 102-11. The owner may be placed on an accelerated inspection schedule by the court, thereby reducing certification periods, if the result of the unified inspection justifies such action. The fees as set forth in § 102-11 shall be charged for such inspections.

§ 102-30. Levies upon real property.

To the fullest extent authorized under the New York State General City Law and the New York State Real Property Tax Law, the Common Council shall have the authority to issue levies against the owner's real property for fines and/or fees due under this chapter.

