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August 2018

Robert M. Palmieri, Mayor  
Members of the Common Council  
City of Utica  
One Kennedy Plaza  
Utica, New York 13502

Report Number: S9-17-18

Dear Mayor Palmieri and Members of the Common Council:

A top priority of the Office of the State Comptroller is to help City officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support City operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of six municipalities (four cities, one town and one village) throughout New York State (NYS). The objective of our audit was to determine whether the use of local government resources is resulting in effective enforcement of fire safety and property maintenance (FSPM) inspections for multiple dwelling (MD)<sup>1</sup> properties at a minimum of once every three years and confirming known violations are corrected. We included the City of Utica (City) in this audit. Within the scope of this audit, we examined the City's inspection records for MD properties for the period January 1, 2015 through December 15, 2016. We extended the scope of our audit back to April 2010 and forward to February 2017 for inspection testing as well as back to January 2014 for reviewing building permits. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the NYS General Municipal Law.

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<sup>1</sup> A "multiple dwelling" generally is a unit which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of three or more families living independently of each other. An MD is not a hospital, convent, monastery, asylum or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families.

This report of examination letter contains our findings specific to the City. We discussed the findings with officials and considered their comments, which are included in Appendix B, in preparing this report. City officials agreed with our report. At the completion of our audit of the six municipalities, we prepared a global report that summarizes the opportunities we identified to improve the inspection of MD properties.

## **Summary of Findings**

We found that the City needs to significantly improve its internal controls over FSPM inspections on MD properties. According to the City's records there are 1,679 MD properties to inspect. The City adopted a local law<sup>2</sup> that requires FSPM inspections be performed on all rental dwellings with certificates of compliance issued for passing inspections that are valid for every 30 months. While we commend the City for adopting a local law that requires 30-month inspections of all residential rental dwellings (approximately 6,100 properties), it has more than tripled the amount of inspections to complete without ensuring adequate resources are available to accomplish the program. In addition, it further hinders the ability to complete the 36-month MD inspections that are required by NYS Law. Of the properties we tested, 72 percent of the MD properties we tested had not met the NYS inspection requirement, and even a greater percentage, 83 percent, had not met the City's local law requirements.

Officials have not developed program monitoring and oversight procedures. They do not maintain an accurate MD properties list, nor have they developed procedures to guide inspectors on the documentation requirements for MD inspections. We reviewed the records for 60 MD properties and found that 17 FSPM inspections were conducted within 36 months as required by NYS Law. However, only 10 FSPM inspections were conducted within the 30-month timeframe set forth in the City's local law. Because inspectors do not use complete checklists and only document PM violations, we could not verify that minimum PM inspections were performed.

The City's local law<sup>3</sup> also states that violations should be corrected or a substantial effort to correct violations be made within 30 days. For the nine failed inspections within the last 30 months, inspectors reinspected and passed two properties with 19 violations within about 34 days. However, seven properties have 40 remaining violations that are outstanding an average of 392 days,<sup>4</sup> with most far exceeding the 30-day time requirement. The Chief Fire Marshal failed to turn these properties over to the Court system for resolution. Ultimately, inspectors issued three certificates of compliance for the 60 MD properties reviewed.

Our review of the 60 properties selected for testing also revealed errors in the rental property list data, four properties are listed as having a passing inspection date, but three were never inspected and one property had a failed inspection. In addition, 16 properties that had no inspection date were inspected.

Finally, the Chief Fire Marshal did not ensure that all inspectors were certified to perform FSPM inspections as required by NYS.

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<sup>2</sup> City of Utica Ordinance Section 2-12-550 (a)

<sup>3</sup> City of Utica Ordinance Section 2-12-550 (c)

<sup>4</sup> One property is within the 30-day inspection target and is not included in the average days outstanding.

## Background and Methodology

The City is located in Oneida County, covering approximately 16 square miles and has approximately 62,000 residents. The City is governed by an elected eleven-member Common Council (Council) composed of 10 Council Members and the Mayor. The City's 2016-17 budgeted general fund appropriations totaled approximately \$67.4 million.

Article 18 of Executive Law Section 381<sup>5</sup> generally directs that the State's cities, towns and villages shall be responsible for enforcing the Uniform Code<sup>6</sup> and the New York Codes, Rules and Regulations (NYCRR)<sup>7</sup> provides that enforcement of the Uniform Code shall be made through local law, ordinance or other appropriate regulation. Further, the NYCRR<sup>8</sup> requires FSPM inspections for all residential buildings with three or more dwellings at least once every three years. Expeditious and effective inspections are critical for preserving the health, safety and welfare of residents; providing reasonable comfort for the tenants; ensuring the quality of rental housing units and maintaining the character of a neighborhood's population base. Conversely, the lack of inspections could lead to the dilapidation of MD properties and an increased risk of serious injury, death, health and economic issues.

The City adopted a local law<sup>9</sup> that designates the Code Enforcement Administrator (Administrator) responsible for administering and enforcing the Uniform Code. In addition, the City adopted a more restrictive local law<sup>10</sup> - the Rental Dwelling Registry Code (Registry Code) - that requires all residential rental properties, including MD properties, receive FSMP inspections to obtain a 30-month rental permit. The Registry Code designates the Fire Chief or his designee responsible for administering the Code. The Fire Chief<sup>11</sup> delegated this responsibility to the Chief Fire Marshal. The Chief Fire Marshal oversees one fire marshal and 100 firefighters, who assist him with inspecting all of the City's rental dwellings, including the MD properties.

NYS Department of State<sup>12</sup> requires FSPM inspections be performed by certified code enforcement officials or building safety inspectors whose certification has not become inactive or revoked.<sup>13</sup>

To complete our audit objective, we interviewed City officials, reviewed policies and procedures and reviewed inspection reports to determine whether inspections occurred as required. We also reviewed inspection documentation to determine if minimum inspection requirements were completed and documented and if officials ensured violations were corrected.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). More information on the standards and the methodology used in performing

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<sup>5</sup> New York State Executive Law Article 18, Section 381.2

<sup>6</sup> 19 NYCRR 1219-1228

<sup>7</sup> 19 NYCRR 1203.2 (a)

<sup>8</sup> 19 NYCRR 1203.2 (h)(2)

<sup>9</sup> City of Utica Ordinance Section 2-6-5 (a)

<sup>10</sup> City of Utica Ordinance Section 2-12-550 (a)

<sup>11</sup> The Fire Chief during the audit left in March 2017.

<sup>12</sup> 19 NYCRR 1203-3.1

<sup>13</sup> Inspectors must meet the certification requirements set forth by the NYS Department of State in order to be eligible to inspect a property. The requirements include 24 hours of in-service training annually for code enforcement officials and six hours annually for building safety inspectors.

this audit are included in Appendix C of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

## **Audit Results**

Policies and Procedures – The Council and officials have a responsibility to oversee and monitor City operations and to ensure that government resources are being used effectively. This responsibility includes establishing policies and procedures that define roles, designate responsibilities, establish the documentation that must be maintained for inspections and provide reasonable assurance that applicable laws, rules and regulations are followed. Maintaining adequate records enables the Council and officials to fulfill their responsibility to monitor inspections of MD properties. In addition, effective policies and procedures would also establish timeframes for inspections and violation follow-ups, as well as establishing how many potential follow-up inspections should occur before involving the Court system. The entire enforcement process also should be formalized and effectively communicated to ensure that violation follow-up procedures are equally and consistently applied.

The Council adopted a local law requiring the Fire Chief to conduct FSPM inspections of all rental dwellings (which would include MD properties) and issue a rental occupancy permit (certificate of compliance) valid for 30 months. The Fire Chief delegated this responsibility to the Chief Fire Marshal. However, the Administrator, Fire Chief and Chief Fire Marshal have not developed and implemented written procedures to ensure the program operates effectively. For example, officials have not developed procedures to ensure the records are accurate, ensured that minimum inspection documentation is maintained, verified that inspectors are certified and monitoring and developed oversight procedures to ensure the City is meeting its FSPM inspection requirements. As a result, officials were unaware of the magnitude of the program's ineffectiveness.

MD Property Lists – Local law requires the fire department to maintain a list of rental dwellings, including MD properties. A complete rental dwelling list should be maintained and used to reconcile the number of inspections completed to readily determine if the inspection program is operating effectively.

The Secretary told us they maintain the City's MD inspection list containing 1,679 properties. Officials also told us this list is updated annually based on property classification changes made to the City Assessor's tax roll and the work of code enforcement and fire inspectors work. For example, when the Assessor updates a property's classification from a single residence to a three family residence, the inspection software program should automatically update the inspection list based on the Assessor's change. We compared the City's list of 1,679 MD properties to the City's tax rolls to determine whether the list is complete. We found immaterial discrepancies that we discussed with officials. During our testing we also found that this list contains 20 properties that are not MD properties.

Inspection Scheduling – Local law requires MD properties be inspected every 30 months. A secretary told us she schedules a mix of properties for inspection weekly including previously inspected properties, follow-up inspections and properties that have never been inspected. Inspections are scheduled six days per week for five fire trucks, each with one or two

appointments.<sup>14</sup> The current scheduling allows for 5,850 inspections to be completed in 30 months. However, firefighters are required to inspect 6,066 properties at least every 30 months. In addition, most properties require reinspections. For example, we reviewed 10 inspections completed within the last 30 months where one property passed its first inspection, while nine properties needed one or more reinspections. This significantly increases the number of inspections that are required within the 30 months. Furthermore, the firefighter's first duty is to respond to an average 12,500 alarms annually. As a result, they are not always available to perform the inspections as scheduled. Therefore, we question the feasibility of accomplishing the goals of this program with the current allocated resources.

Inspections, Violations and Recordkeeping– Local law requires that FSPM inspections be performed on all rental properties, including MD properties, with a certificate of compliance issued when a property passes inspection that is valid for 30 months. Inspections should be completed by certified inspectors. The Registry Code indicates violations should be corrected within 30 days or a substantial effort to correct violations be made. Inspectors should follow-up on violations and determine when voluntary compliance is ineffective and formal enforcement action should be initiated. Accurate records provide officials with essential information on which to base decisions and determine the inspection program's effectiveness.

The City's list of 1,679 MD properties had 563 properties with an inspection date listed and 1,116 properties without any inspection information. We selected 80 properties (40 properties with inspection dates and 40 properties without inspection dates) to determine if certified inspectors performed minimum inspections within 30 months and followed-up on violations. We also reviewed the accuracy of the list's information (type of property and inspection information) to supporting records. Of the 80 properties selected, 20 were not MD properties. We further analyzed inspection records for the 60 MD properties.

The Chief Fire Marshal told us they inspect common areas, as well as the individual dwelling units. Inspectors use an inspection checklist that contains FS items, but does not contain PM items. While inspectors document PM violations, they do not document PM items inspected. Firefighters issue a notice of violation by mail for the initial inspection violations. If no violations are found or when all violations are corrected, the owners are given a certificate of compliance. For the 60 MD properties reviewed, we found the following:

- Inspections: Ten FSPM inspections were conducted by certified inspectors within 30 months (one property passed and nine failed inspection). Because inspectors do not use complete checklists and only document PM violations, we could not verify that minimum PM inspections were performed. Inspectors issued one certificate of compliance.

We reviewed inspection documentation for the 50 remaining properties to determine when the last inspections occurred and found:

- Seven properties had inspections that occurred between 31 to 36 months, in compliance with the NYS Law 36 month requirement.
- Thirty-five properties had inspection dates ranging from 38 months to over 10 years ago.
- Eight properties had no documentation that an inspection ever occurred.

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<sup>14</sup> 45 weekly inspections (6\*5\*1.5), 30 months (130 weeks) = 5,850 scheduled inspections

- Violation Follow-up: Inspectors cited nine properties with 59 violations. Examples of violations included: need to clean the property as well as remove bed bugs, repair the roof, stairs, and floors of a property, install smoke detectors and install a fire-rated door. We reviewed records pertaining to reinspections and found:
  - One property with five violations had yet to reach the 30-day reinspection requirement.
  - Two properties with 19 violations were reinspected and passed within an average of 34 days and certificates of compliance were issued.
  - Six properties with 35 violations have either not been reinspected or have not passed reinspections. The number of days since their last inspection averaged 392 and ranged from 71 to 602 days, with most far exceeding the 30-day time requirement. The Chief Fire Marshal failed to turn these properties over to the Court system for enforcement.
  
- Recordkeeping: The inspection records include the dates of last inspection, the date the next inspection is due, the last failed inspection date, the next scheduled inspection due date and the days since the last inspection. The Secretary uses this information to schedule inspections. During our testing of the inspection records for 60 properties, we found a variety of errors on the MD list's inspection information.
  - For the 39 properties that have inspection dates listed we found that four of the properties are listed as having a passing inspection date, but three were never inspected and one property had a failing inspection.
  - For the 21 properties that had no inspection date listed, 16 properties did have inspections.

The Chief Fire Marshal and Fire Chief told us they are aware the program information is inaccurate. When the software tracking program was changed in November 2015, they did not have time to transfer all the information and the City hired interns to manually enter data, which may have resulted in data entry errors. Without accurate MD property inspection information, there is an increased likelihood that the MD properties may not be inspected within 30 months, as required, putting renters within the City at increased risk. Further, officials cannot monitor the program's effectiveness.

Inspector Certifications – All inspectors must be certified. The City has no procedures to monitor 102 inspectors' certifications.<sup>15</sup>

The Chief Fire Marshal told us all 100 firefighters conduct FSPM inspections and that approximately three inspectors conduct each inspection with a junior inspector being designated the inspector of record for training purposes. We selected 22 firefighters and reviewed their certifications. We found that two had never received their Building Safety Inspector certification and three more did not meet their in-service training requirements for either 2015 or 2016. Therefore, they were not eligible to conduct inspections.

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<sup>15</sup> Chief Fire Marshal, Fire Marshal and 100 Firefighters

City officials told us that they were unaware that inspectors had not met certification requirements and would implement a policy to ensure the requirements are met in the future. Without sufficient training, there is limited assurance that the inspection performed is sufficient and conducted in accordance with the FSPM requirements.

## **Recommendations**

The Administrator, Fire Chief and Chief Fire Marshal should:

1. Develop written procedures for inspections of MDs that convey management's expectations to ensure that the minimum FSPM items are inspected and violations are followed-up on consistently along with monitoring procedures to ensure the program is compliant with the City's local law.

City officials should:

2. Monitor the FSPM inspection program to ensure it is meeting minimum requirements.
3. Ensure the program has sufficient resources to accomplish its expected goals.

The Fire Chief should:

4. Review and update the MD list to ensure it is complete.

The Chief Fire Marshal should:

5. Ensure inspection records are accurate.
6. Ensure that inspectors are certified.
7. Initiate formal enforcement action when voluntary compliance is ineffective.

The Council has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Council to make this plan available for public review in the Clerk's office.

We thank the officials and staff of the City for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo  
Deputy Comptroller

## **APPENDIX A**

### **International Property Maintenance Code Multiple Dwelling- Fire Safety and Property Maintenance Inspections**

The International Property Maintenance Code, as a part of the Uniform Fire Prevention and Building Code, provides standards for MD properties, with exceptions provided for buildings that were built prior to the existence of certain requirements.

## Multiple Dwelling- Fire Safety and Property Maintenance Inspection Requirements

General Requirements	General Requirements (continued)	Lighting, Ventilation and Occupancy Limitations	Plumbing Facilities and Fixture Requirements	Mechanical and Electrical Requirements	Fire Safety
<p><b>General</b> Scope Responsibility Vacant Structures and Land</p> <p><b>Exterior Property Areas</b> Sanitation Grading/Drainage Sidewalks and driveways Weeds Rodent Harborage Exhaust Vents Accessory Structures Motor Vehicles Defacement of Property</p> <p><b>Swimming Pools, Spas and Hot Tubs</b> Swimming Pools Enclosures</p> <p><b>Exterior Structure</b> General Unsafe Conditions Protective Treatment Premises Identification Structural Members Foundation Walls Exterior Walls Roofs and Drainage Decorative Features Overhang Extensions Stairways, Decks, Porches and Balconies Chimneys and Towers Handrails and Guards Window, Skylight and Door Frames -Glazing -Openable Windows Insect Screens Doors Basement Hatchways Guards for Basement Windows Building Security -Doors -Windows -Basement Hatchways Gates</p>	<p><b>Interior Structure</b> General Unsafe Conditions Structural Members Interior Surfaces Stairs and Walking Surfaces Handrails and Guards Interior Doors</p> <p><b>Component Serviceability</b> General Unsafe Conditions</p> <p><b>Handrails and Guardrails</b> General</p> <p><b>Rubbish and Garbage</b> Accumulation of Rubbish and Garbage Disposal of Rubbish -Rubbish Storage Facilities -Refrigerators Disposal of Garbage -Garbage Facilities -Containers</p> <p><b>Pest Elimination</b> Infestation Owner Single Occupant Multiple Occupancy Occupant</p>	<p><b>General</b> Scope Responsibility Alternative Devices</p> <p><b>Lighting</b> Habitable Spaces Common Halls and Stairways Other Spaces</p> <p><b>Ventilation</b> Habitable Spaces Bathrooms and Toilet Rooms Cooking Facilities Process Ventilation Clothes Dryer Exhaust</p> <p><b>Occupancy Limitations</b> Privacy Minimum Room Widths Minimum Ceiling Heights Bedroom and Living Room Requirements -Room Area -Access from Bedrooms -Water Closet Accessibility -Prohibited Occupancy -Other Requirements Overcrowding -Sleeping Area -Combined Spaces Efficiency Unit Food Preparation</p>	<p><b>General</b> Scope Responsibility</p> <p><b>Required Facilities</b> Dwelling Units Rooming Houses Hotels Employees' Facilities -Drinking Facilities Public Toilet Facilities</p> <p><b>Toilet Rooms</b> Privacy Location Location of Employee Toilet Facilities Floor Surface</p> <p><b>Plumbing Systems and Fixtures</b> General Fixture Clearances Plumbing System Hazards</p> <p><b>Water System</b> General Contamination Supply Water Heating Facilities</p> <p><b>Sanitary Drainage System</b> General Maintenance Grease Interceptors</p> <p><b>Storm Drainage</b> General</p>	<p><b>General</b> Scope Responsibility</p> <p><b>Heating Facilities</b> Facilities Required Residential Occupancies Heat Supply Occupiable Work Spaces Room Temperature Measurement</p> <p><b>Mechanical Equipment</b> Mechanical Appliances Removal of Combustion Products Clearances Safety Controls Combustion Air Energy Conservation Devices</p> <p><b>Electrical Facilities</b> Facilities Required Service Electrical System Hazards -Abatement of Electrical Hazards Associated with Water Exposure -Electrical Equipment -Abatement of Electrical Hazards Associated with Fire Exposure -Electrical Equipment</p> <p><b>Electrical Equipment</b> Installation Receptacles Luminaries Wiring</p> <p><b>Elevators, Escalators, Dumbwaiters</b> General Elevators</p> <p><b>Duct Systems</b> General</p>	<p><b>General</b> Scope Responsibility</p> <p><b>Means of Egress</b> General Aisles Locked Doors Emergency Escape Openings</p> <p><b>Fire Resistance Ratings</b> Fire-resistance-rated assemblies Opening Protectives</p> <p><b>Fire Protection Systems</b> General -Automatic Sprinkler Systems -Fire Department Connection Single- and multiple-station smoke alarms -Where Required --Group R-1 --Groups R-2, R-3, R-4 and I-1 --Installation Near Cooking Appliances --Installation Near Bathrooms -Interconnection -Power Source -Smoke Detection System</p>

## **APPENDIX B**

### **RESPONSE FROM CITY OFFICIALS**

The City officials' response to this audit can be found on the following pages.



# THE CITY OF UTICA

OFFICE OF THE MAYOR  
1 KENNEDY PLAZA • UTICA, NEW YORK 13502

ROBERT M. PALMIERI  
Mayor

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February 9, 2018

██████████ Chief Examiner  
Office of the State Comptroller  
State Office Building, Room 1702  
44 Hawley Street  
Binghamton, New York 13901-4417

Via electronic mail:

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██  
██

**RE: Report Number S9017-18**  
**COU File No.: 18-17- Fire Dept. Multiple Dwelling Inspections**

To whom it may concern:

The City of Utica in conjunction with the City of Utica Fire Department has received and reviewed the Draft Report Audit (“Report”) conducted by your office. The purposes of the audit was to determine if the use of the City’s resources is resulting in effective enforcement of fire safety and property maintenance inspections, (“FSPM inspection program”) in accordance with the Uniform Code for multiple dwelling (“MD”).

The City of Utica appreciates this opportunity to comment on this Report, and would like to commend and thank your team of auditors for your input and expertise you provide during the audit. The audit will enable the City to correct any deficiencies and improve the fire department’s current programs and policies.

With this Response letter the City kindly requests that the auditors identify in their final report the sections of the “local law” they reference throughout the Report. This will greatly aid the City in drafting the corrective action plan.

In order to present the City’s response in a coherent fashion, this letter addresses the Report’s results in the order in which they appear, not in order of importance:

### 1. Policies and Procedures

The City agrees with the audit finding, that policies and procedures have not been developed to insure inspections are completed accurately and within stated periods. During the audit, the City was in the process of upgrading its software, [REDACTED] to a new system known as [REDACTED]. This new software has been installed since, and better record keeping has already begun, to accurately track FSMP inspection program properties. In addition, non-compliant properties are being identified sooner with emphasis on past discrepancies to resolve inspections.

The City shall establish procedures for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the conditions and/or activities alleged to be in violation of the code or the laws and/or regulations adopted for administration and enforcement of the code see (see, 19 CRR-NY 1203.2 (i))

The Administrator, Fire Chief, and Fire Marshal shall develop written procedures for inspections of MDs that convey management's expectations to ensure that the minimum FSPM items are inspected and violations are followed – up on consistently along with monitoring procedures to ensure the program is complaint with the City's local ordinances.

### 2. MD Properties Lists

The City agrees that the listing of rental dwelling was not complete or accurate. With the new software in place, the City believes maintaining a list of multiple dwellings will be easier and more complete. The fire department is also working with the assessor's office to ensure accurate reflection of the way properties are coded.

The Fire Chief shall review and update the MD list to ensure it is complete, as recommended by the Report.

### 3. Inspection Scheduling

The City agrees with the Report finding in that MD properties must be inspected every 30 months. As noted in the Report, a firefighter's first duty is to respond to an average 12,500 alarms annually (in 2017- 13,444 alarms), and as a result they are not always available to perform the inspections as scheduled. The City further agrees with the Report in so far as the questioning of the feasibility of accomplishing the goals of the FSMP inspection program with the current allocated resources. The FSMP inspection program is a New York State mandate imposed on local municipalities, but is completely unfunded by the State, resulting in costs and time to be absorbed by the City. The City is appreciative that the Report acknowledges the difficulties and constraints these new tasks, with no added funding or recourses have placed on the fire department and the City of Utica. The fire department is working on a plan to revamp all fire department tasks to better accomplish all mission objectives. This will in turn lead to dedicated time allocations for FSMP inspection program. It should be noted that this is an exceedingly difficult task as the City must comply with the FSMP inspection program without

any help from the State. This is the major issue to improving the FSMP inspection program. As indicated in the Report or other resource time constraints when the main mission of the fire department is to answer emergency calls, requires a complete revamping of the FSPM inspection program.

The City further believes the Rental Occupancy Program (ROP) further frustrates the fire department's ability to accurately comply with FSPM inspection program, due to its limited resources.

The City is considering a variety of options to optimize its recourses in order to fully comply with the FSPM inspection program:

First, under the FSPM inspection program, among other duties, the City must conduct fire safety and property maintenance inspections of buildings which contain an area of public assembly at intervals not to exceed one year (see, 19 CRR-NY 1203.2 (h)), and inspections of all multiple dwelling and all nonresidential occupancies at intervals consistent with local condition, but in no event shall intervals exceed one year for dormitory buildings and three years for all other buildings (see, 19 CRR-NY 1203.2 (h)). This section explicitly excludes one and two family dwellings. The City of Utica through enactment of the ROP program attempted to cover and provide inspections for one and two family dwellings, thus placing a greater burden on the fire department. Given the findings of the Report, it has become clear that the City is having great difficulty enforcing both programs.

Therefore, at this time, City officials are unable to ensure that the FSPM inspection program has sufficient resources to accomplish said programs goals and meet its requirements. However, the City shall amend its ROP ordinance to reflect inspections to be conducted every 36 months as require by state law as opposed to the every 30 month inspection that is currently on the books.

#### 4. Inspections, violations and Recordkeeping

##### a. Inspections

The City agrees with the Report finding that inspectors did not use complete checklists in conducting inspections. The City has developed a checklist and will continue to improve it so that inspections are done properly.

##### b. Violation follow up

With respect to violation follow up, the Report found that certain properties with violations were not re-inspected, and exceed the 30 day time requirement for compliance.

The City shall begin to issue *orders to remedy* as prescribed by 19 CRR-NY 1203.5. the City shall also begin to use other means of enforcing the FSPM inspection program, including ,but not limited to issuing notices of violation and/or issuing appearance tickets, and other remedies as enumerated in 19 CRR-NY 1203.5.

The Chief Fire Marshal shall initiate formal enforcement action when voluntary compliance is ineffective, as recommended by the Report.

c. Recordkeeping

The City of Utica agrees that its recordkeeping with respect to the inspection records was sometimes inaccurate. The Chief Fire Marshal shall ensure inspection records are accurate, as recommended by the Report. The City shall ensure that its record management system includes all the features and activities specified in subdivisions (a) through (i) of 19 CRR-NY 1203.2, and of fees charged and collected, if any, shall be established and maintained.

d. Inspector certifications

The City agrees with the Report finding that the tracking of training of inspectors needs to be improved. Complete training and annual in service training requirements has been taking place over the last 6 months. As the policies and procedures are completed and program improved, training of personnel will be easily scheduled and tracked. Training should include annual training and review of department policies and procedures regarding FSMP inspection program. Currently only certified inspectors are conducting inspections. To be clear, during the audit, out of the approximately 110 firefighters, less than 12 were not certified.

The Chief Fire Marshall shall ensure that inspectors are certified, as recommended by the Report.

In conclusion, the fire department has recognized the FSPM inspection programs deficiencies. While not an excuse and certainly not the sole reason, the change in leadership of the fire department has made the process of correcting the FSMP inspection program a priority. The audit can be viewed as a catalyst to correcting the inspections and the City having a program that works to the benefit of all.

Sincerely,

Robert M. Palmieri  
~~Mayor~~/Public Safety Commissioner  
City of Utica

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, our procedures included the following:

- We interviewed City officials and staff to gain an understanding of the City's policies and procedures for MD property inspection.
- We compared the City's list of MD properties to the 2016 tax roll and MD new construction permits from 2014 to 2015 to determine the list's completeness.
- We selected a sample of 40 MD properties from the City's list of 563 inspected MD properties using a random number generator. We reviewed records to determine whether:
  - Inspections of MD properties occurred within the timeframe prescribed by local law.
  - The documentation indicated the FSPM items inspected and whether minimum inspections were performed.
  - The inspectors were certified by NYS.
  - Inspectors followed-up on violations, including Court system referrals, if warranted.
- We selected a sample of 40 MD properties from the City's list of 1,116 uninspected MD properties using a random number generator. We reviewed records to determine whether the property was a MD and therefore should be on the list. We then determined whether:
  - The property was inspected and whether it occurred within the timeframe prescribed by law.
  - The documentation indicated the FSPM items inspected and whether minimum inspections were performed.
  - The inspectors were certified by NYS.
  - Inspectors followed-up on violations, including Court system referrals, if warranted.
- We reviewed the MD property inspection annual reports.
- Using a random number generator, we selected a sample of 22 inspectors from a list of 107 firefighters (including five retired) to verify whether they were certified by the Department of State to conduct FSPM inspections.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.