

I hereby certify that the following Resolution was adopted at a Meeting of the City Council held on February 22, 2010.

RESOLUTION 2010-18

RESOLUTION RELATIVE TO RESCINDING CHAPTER 1137  
ENTITLED "LICENSING OF RENTAL HOUSING BUSINESS" AND  
ADOPTING CHAPTER 1137 ENTITLED "LANDLORD RENTAL  
AND PROPERTY OWNER REGISTRATION"

By: Council Chairman Samuel Fruscione

BE IT RESOLVED by the City Council of Niagara Falls, New York that Chapter 1137 of the Codified Ordinances entitled "Licensing of Rental Housing Business" is hereby rescinded and Chapter 1137 entitled "Landlord Rental and Property Owner Registration" is hereby adopted to read as follows:

CHAPTER 1137

LANDLORD RENTAL AND PROPERTY OWNER REGISTRATION

1137.01 PURPOSE

The purpose of this Chapter is to establish a procedure and standards for the identification and registration of rental properties and unoccupied properties, to ensure that the City has a meaningful, efficient and effective means of communicating with those persons and companies who own rental properties and unoccupied properties. This Chapter is adopted to promote the health and safety of tenants and to alleviate conditions of substandard housing, including slums and blight.

1137.02 ENFORCEMENT

This Chapter shall be enforced by the Director of Code Enforcement, or his designee.

1137.03 DEFINITIONS

As used in this Chapter, these terms shall have the meanings indicated as follows:

ACTION or PROCEEDING - Any action or proceeding which may be instituted in the City Court of the City of Niagara Falls or the County Court of the County of Niagara or the Supreme Court of the County of Niagara or any court of competent jurisdiction with an alleged violation of any ordinance or law of the City of Niagara Falls.

BUILDING - Any improved real property, residential or mixed use (commercial-residential), located within the City of Niagara Falls, that is nonowner occupied or is improved and unoccupied.

CHANGE IN OCCUPANCY - Whenever a tenant shall move from, vacate or quit willingly or otherwise or express the firm intent to vacate or quit a rental unit.

DIRECTOR - The Director of Code Enforcement of the City of Niagara Falls, New York.

IDENTIFICATION OF BUILDING - It is required that the house number be placed on the building in a conspicuous place.

LANDLORD AND PROPERTY OWNER REGISTRATION STATEMENT - A form created by the Director and distributed to the owner of rental property and unoccupied property in accordance with standards and requirements set forth in this Chapter.

OWNER - Any individual or individuals, partnership or corporation or any similar type business organization, whether for profit or otherwise, in whose name title to a building stands, including a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the property.

PROCESS - A summons, complaint or any notice, mandate or any other paper process issued under any provision of the Codified Ordinances of the City of Niagara Falls or any law or regulation of the State of New York.

RENTAL PROPERTY - Includes all properties which are either rented, leased, let or hired out to be occupied for residential or mixed used (commercial-residential), and are nonowner occupied. For any rental property to be considered owner occupied, the owner must prove that at least one (1) owner, partner, or shareholder of a corporation actually has his or her principal residence at the rental property and reside therein on a full-time basis, it being the actual domicile of that owner, partner, or shareholder. At the request of the City of Niagara Falls, any owner who claims to occupy the rental property shall provide a sworn affidavit providing the necessary information to support his or her claim that the premises are owner occupied.

RENTAL UNIT - A residential unit occupied by a party other than an owner.

RESIDENTIAL UNIT - One or more rooms with provision for sanitary and sleeping facilities, for food preparation, for living and for working.

TENANT - A party whose right to possession of a rental unit is subject to the express or implied consent of the owner.

UNOCCUPIED PROPERTY - Any improved real property that is not occupied by the owner or a tenant.

1137.04 PROPERTY REGISTRATION

A. REGISTRATION OF OWNER.

1. The owner of a building constituting a rental property or unoccupied property shall register the same with the Director within 60 days of the effective date of this Chapter on a form approved by the Director. This form shall be known as a "Landlord and Property Owner Registration Statement" which shall be signed by the owner. A Landlord and Property Owner Registration Statement shall be completed and filed for each building constituting a rental property or unoccupied property.

2. It shall be unlawful for any owner to offer any unit for rent, or to rent any unit, or to allow any rental unit to be occupied without having first registered pursuant to this Chapter as required herein within the time prescribed for such registration. Failure to receive notice of the registration deadline will not excuse failure to register within the time prescribed for such registration. Failure to receive notice of the registration deadline will not excuse failure to register rental property. It is the owner's responsibility to fulfill the requirements of this Chapter.

3. In the event the building which is the subject of the Landlord and Property Owner Registration Statement is not used for a use consistent with the legal use reflected in the office of the Director, the owner shall take immediate action to conform the Building to the legal use reflected in the office of the Director.

B. LANDLORD AND PROPERTY OWNER REGISTRATION STATEMENT

1. Every owner of a rental property as above defined or an unoccupied property shall file with the Director within 60 days after the effective date of this Chapter, a Landlord and Property Owner Registration Statement on a form to be supplied by the Director, containing the following:

a. A description of the premises by street number, a legal description of the premises, and section, block and lot number, including tax identification number.

b. The owner's name, date of birth, residential address, and mailing address, together with his/her business telephone number, home telephone number, fax number, and e-mail address or, if such owner is a corporation, the name and address of such corporation, its employer identification number and the name, date of birth, residence, business address, together with the residence and business telephone numbers, fax numbers and e-mail addresses of at least two officers of the corporation responsible for management of the rental property or, if the owner is a limited liability company, the name, business address, business telephone number, fax number and e-mail address of the limited liability company, and the name, date of birth, residence, business address, residence and business telephone numbers, fax number and e-mail address of the manager of the limited liability company, or if the owner is a partnership, the name, date of birth, address, residence and business telephone numbers, fax number and e-mail address of the individual partners.

c. Designation of managing agent. In the event the owner does not reside in Niagara County, New York, the owner must designate a managing agent. If a managing agent is required, then the owner shall provide the following information to the Director: the name, date of birth, residence and business address and telephone numbers, fax number and e-mail address of a natural person, 18 years of age or over, who actually

resides within the County of Niagara, New York, and who shall be designated by such owner as a managing agent responsible for and in control of the maintenance and operation of such rental property, and who shall be designated as the person upon whom process may be served on behalf of the owner. The managing agent and/or owner shall keep a current record of all the tenants, and their names and addresses, who are renting, leasing or living in the premises. There shall be endorsed upon such statement a written consent to such designation signed by such managing agent and such managing agent shall also consent to be subject to the jurisdiction of any applicable court of law.

d. The owner shall be obligated, at all times, to keep this information updated, and when there is a change in the managing agent, or any other material change, the owner shall be obligated to update the information by amending the Landlord Registration Statement within 15 days from the date of any such change.

e. Nothing contained in this section shall be construed as preventing a corporation, limited liability company or partnership which is an owner of real property from designating as its managing agent with respect thereto any officer of such corporation, manager or partner who meets the requirements of this subsection as to location of the residence or the place of transacting business of the managing agent.

f. Any designation as managing agent made pursuant to the provisions of this section shall remain in full force and effect until changed or terminated as hereinafter provided.

2. Upon completion and execution and submission of the Landlord and Property Owner Registration Statement as aforesaid, said registration statement shall be reviewed by the Director or his designee for adequacy. Should the Director determine that said registration statement is incomplete, defective or untruthful for any reason, said registration statement shall be marked "rejected" and returned to the owner. A rejected registration statement shall not be deemed compliance with the requirements of this Chapter.

3. An approved Landlord and Property Owner Registration Statement shall be required and shall be a condition precedent before the owner may rent any unit contained in the rental property.

4. Where, after filing of any Landlord and Property Owner Registration Statement in relation to any rental property under the applicable provisions of this Chapter, the owner of such property shall have granted or transferred his/her right, title or interest therein or in any part thereof, the new owner shall file with the Director at the time of transfer a Landlord and Property Owner Registration Statement pursuant to the requirements of this Chapter.

5. Any designation of the managing agent made pursuant to the applicable provisions of this section shall cease to be effective if such agent shall die or be judicially declared incompetent.

6. An owner may terminate such designation by filing with the Director a written statement designating a new managing agent made in conformity with the provisions herein above cited.

7. Any Landlord and Property Owner Registration Statement or designation of a managing agent required to be filed with the Director by any owner of a rental property under the provisions of this section shall be signed by such owner, or if such owner is a corporation, by an authorized officer thereof, or if such owner is a partnership, by a partner thereof, or if such owner is a limited liability company, by the manager.

8. Any such Landlord and Property Owner Registration Statement or designation of a managing agent shall be deemed prima facie proof of the statement therein contained, in any criminal or civil prosecution instituted by the City of Niagara Falls or by any proper prosecutorial agency against the owner or managing agent of a rental property.

9. It shall be unlawful for any owner to permit the occupancy of any rental unit subject to this Chapter, unless such owner has a current, valid Landlord and Property Owner Registration Statement on file with the Director. It shall also be unlawful for any owner to own unoccupied property subject to this Chapter, unless such owner has a current, valid Landlord and Property Owner Registration Statement on file with the Director.

10. This Chapter shall apply to all buildings in the City of Niagara Falls which contain a rental unit or rental units or which are unoccupied property.

11. The Landlord and Property Owner Registration Certificate shall be valid for a period of two (2) years or until such time that there is a change in ownership, unless the Director revokes such permit pursuant to 1137.04(B)(14).

12. RENEWAL.

No less than thirty (30) days and no more than sixty (60) days prior to the expiration of a Landlord and Property Owner Registration Statement, the holder of such registration statement shall file with the Director a new and separate Landlord and Property Owner Registration Statement to obtain a new Landlord and Property Owner Registration Statement. Failure to obtain a renewal Landlord and Property Owner Registration Statement for an occupied rental unit or for unoccupied property shall be treated as a violation of 1137.04(B) of this Chapter.

13. REVOCATION.

A. The Director may revoke a Landlord and Property Owner Registration Statement after written notice to the owner that the requirements of this Chapter or any conditions of said Landlord and Property Owner Registration Statement have been violated.

B. Whenever the Director revokes the Landlord and Property Owner Registration Statement, he shall serve the owner with a written notice of revocation which shall include a statement of the grounds for revocation and a statement of particulars specifying in what respect the rental unit or building in which it is located is in violation. Written notice may be served by personal delivery or certified mail, return receipt requested, to the owner addressed to the last known address on file with the Director. Notice will be deemed given when delivered to the owner or by depositing same in a postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the United States post office department within the State of New York.

C. In the event that any building subject to this Chapter is condemned for occupancy, any Landlord and Property Owner Registration Statement shall be deemed revoked.

D. The owner shall have 15 days from the day when notice is given within which to remedy any violations specified in the notice of revocation. In the event such violations are not remedied to the satisfaction of the Director within the 15 day period, the Landlord and Property Owner Registration Statement shall be deemed revoked.

14. Building permits of any nature shall not be issued for work regarding buildings subject to this Chapter unless and until a valid Landlord and Property Owner Registration Statement is on file with the Director.

15. FEES.

The fee to register all buildings subject to this Chapter and all unoccupied property subject to this Chapter, shall be as follows:

Buildings and unoccupied property containing  
one (1) or two (2) rental units                      \$25.00

Buildings and unoccupied property containing  
three (3) or more rental units                      \$40.00

Notwithstanding the foregoing, required fees shall be waived for owners of buildings and unoccupied property subject to this Chapter who register with the Director within 60 days of the effective date of this Chapter.

16. EFFECTIVE DATE.

This Chapter shall be effective May 1, 2010.

1137.05 PENALTIES FOR OFFENSES.

A failure to register any unoccupied property or rental property required to be registered under this Chapter shall be a violation, and any person or entity convicted of such violation shall be punished as follows:

1. Upon the first conviction, a fine of not less than \$250, but not exceeding \$500; and

2. Upon a second such conviction within a twelve-month period, a fine of not less than \$500, but not exceeding \$2,500.

1137.06 SEVERABILITY.

If any article, section, subsection, paragraph, sentence, clause or provision of this Chapter shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the article, section, subsection, paragraph, sentence, clause or provision thereof directly involved in the controversy in which such judgment shall have been rendered.