

RESOLUTION No. 2022-

**RELATIVE TO ADDING CHAPTER 1143
OF THE CODIFIED ORDINANCES
ENTITLED "PROPERTY MANAGER REGISTRATION"**

BY:

Council Member Kenny Tompkins

BE IT RESOLVED by the City Council of the City of Niagara Falls, New York that Chapter 1142 of the Codified Ordinances entitled "Property Manager Registration" is hereby added to the Codified Ordinances of the City of Niagara Falls and shall read as follows

CHAPTER 1143

PROPERTY MANAGER REGISTRATION

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<u>1143.08</u>	<u>Expiration of License</u>		

1143.01 **PURPOSE**

The City Council of the City of Niagara Falls hereby finds and declares that the management and rental of residential properties constitutes a business, which impacts upon the public health, safety, general welfare, comfort, peace and prosperity of the people of the City of Niagara Falls. The intent of this chapter is to regulate the management of residential rental properties to protect the public health, safety, general welfare, comfort, peace and prosperity of the people of the City of Niagara Falls by providing for a licensing procedure for property managers who engage in the management of three or more residential City properties.

1143.02 **ENFORCEMENT**

This chapter shall be enforced by the Director of Code Enforcement and/or his/her designee.

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1143.03 DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated:

DIRECTOR – The Director of Code Enforcement of the City of Niagara Falls, New York and/or his/her designee.

DWELLING UNIT - A single unit providing complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

PROPERTY MANAGEMENT - The engaging on behalf of an owner of residential property of those activities commonly associated with the operation and rental of three (3) or more residential rental units, including but not limited to the advertising or soliciting of apartments or rental units for rent; tenant review and screening; the collecting and/or oversight of rental profits; and/or the conducting of and/or arranging for minor repairs and maintenance of residential properties in the City of Niagara Falls.

PROPERTY MANAGER - An individual or entity who engages in the property management of three (3) or more residential rental units in the City of Niagara Falls for a fee or salary. The individual must reside in Niagara County or the entity must be based in Niagara County or any adjoining county thereto within the meaning of New York Criminal Procedure Law § 130.40. A residential property occupied by its owner shall not be included in any calculation to determine property manager status.

RESIDENTIAL - For the purposes of this section and only this section the term "residential" shall refer to a property with any number of dwelling units and is not limited to one (1) or two (2) unit properties. If a dwelling unit is owner-occupied, that unit will not be included in the calculation to determine property manager status. For example, if a property has three (3) dwelling units and one (1) unit is occupied by the owner of the property, a property manager is not required for the property.

1143.04 LICENSE REQUIRED

No person, firm, corporation or entity shall act as a property manager or engage in property management activities within the meanings of this chapter for two (2) or more non-owner occupied, residential rental units without first obtaining a license from the Director of Code Enforcement.

1143.05 APPLICATION: FILING OF REQUIRED INFORMATION

- A. Within sixty (60) days after the effective date of this chapter all property managers existing on the effective date of this chapter shall make written application to the Director for a property manager registration certificate. In addition, all new property managers commencing property

management services on or after the effective date of this chapter shall make written application to the Director for a property manager registration certificate as herein provided prior to the commencement of said property management services. Such application shall be made on a form furnished by the Director and shall set forth the following information, in addition to other information required by the Director from time to time which may be necessary to administer, enforce, and insure compliance with the provisions of this chapter and the housing code.

1. The name, address, e-mail address (if applicable) and telephone number of the individual or entity applying for the license. A copy of the applicant's photo identification (ID) shall also be required upon submission of said application.
 2. A description of all properties proposed to be managed by the applicant, including the street addresses, owner(s) name, address and telephone number, and number of units.
 3. Proof of insurance in amounts satisfactory to the Department of Code Enforcement, if deemed necessary by the Director or his/her designee.
 4. If an applicant will collect rents or negotiate rental of property, a copy of his/her New York State real estate broker's license is required. If an applicant is licensed as "Associate Real Estate Broker" or "Real Estate Salesperson" a copy of the real estate broker's license they work under is required. If an applicant is strictly performing maintenance and no rents are collected and/or no negotiating of rental property is performed, then a broker's license is not required.
 5. Any other additional information as required by the City of Niagara Falls.
- B. Such information shall be filed and updated annually with the Department of Code Enforcement.

1143.06 REFERRAL OF LICENSE APPLICATION

- A. All applications for licenses and renewals thereof shall be referred by the Director of Code Enforcement to the Niagara Falls Police Department for approval. Upon receipt of said referral, the Niagara Falls Police Department shall promptly cause an investigation to be made into the criminal background and professional fitness of the applicant and shall promptly report to the Director of Code Enforcement as to whether or

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not approval and issuance of the license is recommended. If approval is not recommended, such report shall state the reasons therefore.

- B. All applications for licenses and renewals shall also be forwarded to the Assistant Corporation Counsel acting as Housing Court Prosecutor within the City of Niagara Falls Law Department for review and comment. Said Housing Court Prosecutor shall have fourteen (14) days to review and comment upon the application after his/her receipt thereof.
- C. All new applications for a property manager license shall be referred to the City Council for approval.

1143.07 LICENSE CONDITIONS

- A. If a property manager collects rents or negotiates the rental of property, a real estate broker, associate real estate broker or real estate salesperson license as issued by the New York State Department of State pursuant to Article 12-A of the New York State Real Property Law is required. As per Article 12-A of the New York State Real Property Law, a property manager or property management company who negotiates the rental of property or collects rents is required to be licensed as a real estate broker, associate real estate broker or real estate salesperson in the State of New York..
- B. Upon approval of the license, a property manager must contact tenants in all dwelling units managed by the property manager and provide them with contact information as the property manager or property management company. This must be completed within thirty (30) days of approval.
- C. If, subsequent to receiving a property management license, a property manager acquires additional properties and/or is removed as property manager for a previously managed property in the City of Niagara Falls, he shall notify the Department of Code Enforcement, in writing, of the additional properties he now manages and/or the properties that he no longer manages. Said notification must occur within forty five (45) days of acquiring the additional properties or the removal of the previously managed properties.
- D. If a property manager is found by the City to be in violation of this chapter, or any section of the Codified Ordinance of the City of Niagara Falls pertaining to his/her duties as a property manager, the City Council shall have the authority to summon him to appear before it for review of his license.

E. The City of Niagara Falls may impose additional conditions upon any license issued pursuant to this chapter.

1143.08 EXPIRATION OF LICENSE

All licenses issued pursuant to this chapter shall expire annually on the 31st day of December. Each new applicant for re-issuance or renewal shall be required to submit a new application in accordance with the requirements set forth in this chapter.

1143.09 INSPECTIONS

The City of Niagara Falls, its departments, and agents may inspect any property managed by a licensee at any reasonable hour.

1143.10 REVOCATION OF LICENSE

A license issued pursuant to this chapter may be revoked or suspended for cause by the Director of Code Enforcement after notice and a hearing. Any violation of or failure to comply with any of the laws or ordinances applicable to the management of residential properties shall be cause for revocation or suspension. The Director may consider such factors, including, but not limited to, the property manager's conduct during the license period, including relevant criminal or housing court actions and dispositions, the nature and disposition of any notices of violation from the Department of Code Enforcement issued for conduct at any of the properties included on said license, the nature and frequency of complaints about the properties generated from, among other sources, Police Department incident reports, 911 calls, 311 reports, property inspection reports and other verifiable information reported to the City.

1143.11 TRANSFERABILITY OF LICENSE

Licenses issued hereunder are not transferable.

1143.12 PENALTIES FOR OFFENSES

Any individual or entity engaging in activity in violation of this chapter shall be subjected to the penalties provided in Chapter 101.99 of the Codified Ordinances of the City of Niagara Falls.

1143.13 FEES

The fees for licenses issued pursuant to this chapter shall be as follows:

Seventy five dollars and no more cents (\$75.00) per application.

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The Director shall review the fee schedule annually and recommend changes as he deems appropriate, to the City Council.

Any individual or entity possessing proof of a valid "Real Estate Broker," "Associate Real Estate Broker" or "Real Estate Salesperson" license as issued by the New York State Department of State pursuant to Article 12-A of the New York State Real Property Law shall be exempt from having to pay the fee provided for in said chapter upon the presentation of said license to the Director of Code Enforcement.

All funds generated from this chapter shall be used, among other things, for the hiring of an additional staff person and/or necessary equipment for the Rental Dwelling Unit Registration Program and Property Manager Registration Program in the Department of Code Enforcement.

1143.14 SEVERABILITY

The provisions of this chapter are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this chapter is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the chapter.

1143.15 EFFECTIVE DATE

This chapter shall be effective on October 1, 2022.

Bold and Underline Indicate Additions
Bold and Brackets Indicate {Deletions}