

Local Law No. P-6 of the year 2019.

A local law adding Section 144-18 “Rental Permits” to Chapter 144 “Building Code Administration and Enforcement” to the City Code of the City of Plattsburgh.

Introduced by Councilor Ensel on November 26, 2019 at a Regular Meeting of the Common Council.

Public Hearing to be held on Thursday, December 12, 2019 at 5:00pm in the Council Chambers, 41 City Hall Place, Plattsburgh, NY 12901.

This Local Law is enacted pursuant to the provisions of Sections 10 of the Municipal Home Rule Law of the State of New York.

Be it enacted by the Common Council of the City of Plattsburgh as follows:

1. The City Code of the City of Plattsburgh is amended by adding Section 144-18 “Rental Permits” to Chapter 144 “Building Code Administration and Enforcement” to the City Code of the City of Plattsburgh to read as follows:

Chapter 144 “Building Code Administration and Enforcement”...

§ 144-18 Rental Permits

A. Purpose

The Common Council of the City of Plattsburgh recognizes that the rental of single-family residences or units within a duplex to more than four unrelated individuals who do not otherwise qualify as a “family” or “functional equivalent of a family”, or the rental of multi-family dwelling units, (hereinafter “High Occupancy Rental Units”) constitutes a business which impacts upon the public health, safety and general welfare of the people of the City of Plattsburgh. The state and local framework for regulation and inspection of High Occupancy Rental Units is in many and various respects not sufficient to protect the residents from potential violations of the Building and Fire Code, particularly where there is a high turn-over of residents therein. The intent of this chapter is to create a registry, inspection and permit protocol for the offering for rental of High Occupancy Rental Units so as to facilitate the enforcement of New York Building and Fire Codes as well as the City Code of Plattsburgh in relation thereto in order to protect the public health, safety and welfare of the people of the City of Plattsburgh and to achieve the following beneficial purposes:

- (1) The protection of the character and stability of residential areas;
- (2) The correction and prevention of housing conditions/violations that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons inhabiting High Occupancy Rental Units; and

(3) The preservation of the value of land and buildings throughout the City of Plattsburgh.

Further, the Common Council of the City of Plattsburgh recognizes that some High Occupancy Rental Units are owned by corporations or companies whose members or owners lack sufficient capital to discover, correct and prevent violations of the aforementioned codes, particularly where they own more than one property.

Accordingly, this Chapter is intended to ensure that substantial owners of corporations or companies, as defined herein, have sufficient capital to preserve the health, safety and welfare of tenants of all of their High Occupancy Rental Units.

B. Definitions

The following Definitions will apply to this Section:

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 for at least a 30-day continuous period.

RENTAL BUILDINGS AND STRUCTURES/RENTAL UNIT

- A. Dwelling units, rooming houses, rooming units, two-family dwellings, or multiple dwellings which 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 non-transient guests in which no private kitchen facilities shall be provided to guests.

DWELLING UNIT

Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living.

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 or DUPLEX

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.

MULTI-FAMILY DWELLING

A building of three or more 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.

SUBSTANTIAL OWNER

A person, member, or shareholder who owns or controls at least 10% of the shares, stocks, or ownership interest of a company, corporation, partnership, trust, or other related entity.

SINGLE-FAMILY RESIDENCE

A freestanding detached structure which contains a residence designed for and occupied by one family as defined herein.

FAMILY

A. The term "family" means:

(1) Any number of persons related by blood, marriage, or adoption living together in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common; or

(2) Up to four unrelated persons living together in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common; or

(3) Five or more persons occupying a dwelling unit and living together as the functional equivalent of a family.

B. It shall be presumed that five or more persons occupying a dwelling unit do not comprise the functional equivalent of a family. A functional equivalent of a family is a group of persons living together in a dwelling unit who:

(1) Share the use of the entire dwelling unit.

(2) Share the cost of rent, food, utilities, property maintenance and other household expenses.

(3) Intend to reside together on a permanent basis and have a stable relationship.

C. The following facts shall be considered in deciding whether a group intends to reside together on a permanent basis and has a stable relationship:

(1) The presence of minor dependent children regularly residing in the household who are enrolled in local schools.

(2) Whether the group members regularly dine together.

(3) Whether the dwelling is the legal residence of all group members as evidenced by the address listed on their driver's license, motor vehicle registration, voter registration card, income tax return or any other document that lists the member's residence address.

(4) Employment in the local area.

(5) Joint or common ownership of household furnishings.

(6) Other facts relevant to prove that the group functions as a stable household unit and intends to reside together for the indefinite future.

HIGH OCCUPANCY RENTAL UNITS

The term “high occupancy rental units”, as used in this section, includes (1) single-family residence rented to more than four unrelated individuals who do not otherwise qualify as a “family” or “functional equivalent of a family”; (2) dwelling units within a duplex or two-family dwelling rented to more than four unrelated individuals who do not otherwise qualify as a “family” or “functional equivalent of a family”; or (3) a Multi-Family Dwelling.

C. Rental Permits

1. Commencing May 1, 2020, it shall be unlawful to rent a High Occupancy Rental Unit unless and until a rental permit shall have been issued by the Code Enforcement Officer certifying that such premises conforms to the Uniform Building Code, New York State Uniform Fire Prevention and Building Code and Plattsburgh City Code, except that a temporary certificate may be issued upon showing, to the satisfaction of the Code Enforcement Officer, that remedial action is being taken to correct violations. Commencing on the effective date of this Section, the Code Enforcement Officer shall accept rental unit registration forms without penalty to the owner, lessor or respective agent of premises.
2. Unless revoked sooner, rental permits shall be valid for three years from the date of issuance. Owners and lessors, or their respective agents, shall, upon request, make available a copy of said rental permit to the person(s) in possession or occupancy. Rental permits may not be assigned or transferred.
3. A rental permit may be revoked, or not granted, by written notice thereof, if, upon an inspection, the subject premises are found to be in violation of this Section, the Uniform Building Code, New York State Uniform Fire Prevention and Building Code or the Plattsburgh City Code.
 - i. The Code Enforcement Officer is authorized to conduct inspections of premises or parts of premises at such times and in such manner as the Code Enforcement Officer may find convenient or necessary, with the consent of the person in possession or occupancy, or the record titleholder, to ensure compliance with the Uniform Building Code, New York State Uniform Fire Prevention and Building Code and Plattsburgh City Code.
 - ii. If admission is refused or cannot be obtained from the person in possession or occupancy, or the record titleholder, the Code Enforcement Officer is authorized to obtain an administrative warrant from a court of competent jurisdiction and also revoke or refuse to issue a rental permit.
4. A rental permit may be revoked, or no such rental permit shall be granted to or renewed for an applicant who is in violation of any Uniform Building Code or City of Plattsburgh Code, ordinance or local law (hereinafter "violations"). A rental permit may be revoked, or no such rental permit shall be granted to or renewed for an applicant who owes property taxes, water or sewer fees, special assessments, fines for

violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Plattsburgh (hereinafter "unpaid monies").

- i. The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.
- ii. In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant. This denial or revocation of a rental permit shall also apply to such violations or unpaid monies for any parcel of real property within the City of Plattsburgh owned by a Substantial Owner of a company, corporation, or partnership.
- iii. In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.
- iv. Such rental permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Plattsburgh of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.
- v. No application fees shall be refunded upon revocation of the rental permit.
- vi. The applicant must reapply for the issuance of such revoked rental permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new rental permit has been granted.
- vii. All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a Substantial Owner in such entity owes such unpaid monies or has accrued such violations.

D. Inspections; Issuance of Notices; Occupancy Limitations

1. For purposes of this Section, the Code Enforcement Officer shall cause inspections to be made at intervals as follows, but in any event, not less than once every 3 years:

- (i) If requested in writing by the owner, owner's agent or occupant of a rental building(s) or structure(s) pursuant this Section;
- (ii) Upon receipt of a registered complaint;
- (iii) Upon the sale, transfer or conveyance of a Multi-Family Dwelling that will be utilized as a rental building/structure;

- (iv) Upon the sale, transfer or conveyance of a single family residence, or a unit of a duplex, which is occupied by more than four unrelated individuals who do not otherwise qualify as a “family” or “functional equivalent of a family”;
 - (v) Upon the application for a building permit for a Multi-Family Dwelling that will be utilized as a rental building/structure.
 - (v) At the discretion of the Code Enforcement Officer at an interval of less than three years, or
 - (vi) Otherwise in accordance with law.
2. 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 Plattsburgh, and the Code Enforcement Office may issue notices as provided for in this chapter.
 3. 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.
 4. Occupancy limitations shall be governed by the rules and regulations contained in the Uniform Building Code, New York State Uniform Fire Prevention and Building Code City Code of the City of Plattsburgh, and any amendments made thereto. Nothing in this section shall authorize any owner to allow for an occupancy of property in excess of what is permitted in these aforementioned Codes.

E. Prohibited Acts

1. In addition to the requirements of this Section, the following shall be deemed violations:
 - (i) It shall be unlawful and a violation of this chapter for any owner of a Multi-Family 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.
 - (ii) It shall be unlawful and a violation of this chapter for any owner of a single-family residence or unit within a duplex to rent to more than four unrelated individuals who do not otherwise qualify as a “family” or “functional equivalent of a family” without first having obtained a rental permit as provided herein.
 - (iii) It shall be unlawful and a violation of this Section for any owner of a rental building or structure to provide materially false, misleading, or inaccurate information on any form submitted pursuant to this Section.
 - (iv) It shall be unlawful and a violation of this Section for any person to disable a carbon monoxide or smoke detection device within a dwelling unit or to otherwise lease a dwelling unit that is not in compliance with the New York State Uniform Fire Prevention and Building Code.
 - (v) 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.

F. Rental Certification and Registration Information

1. Commencing March 1, 2020 owners of High Occupancy Rental Units which are located in the City of Plattsburgh shall annually 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, including each Substantial 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, the number of occupied bedrooms within each single-family residence, 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 nonconforming 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. 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.
2. The registration form shall also include a section whereby the owner of High Occupancy Rental Units shall certify, under oath and subject to perjury, that all information on the registration form is accurate and complete and 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.
3. Only those owners who can demonstrate to the Code Enforcement Officer that such single-family residences or units within a duplex who rent to more than four unrelated individuals who do not otherwise qualify as a "family" or "functional equivalent of a family" are an established pre-existing non-conforming use will be eligible to receive a rental permit.

G. Fees; Issuance of Permits

1. Rental permit fees, rental inspection fees, re-inspection fees and rental registration and certification fees will be charged in the amount set forth in the schedule of fees adopted by the City of Plattsburgh Common Council by resolution.
2. Permits shall be issued upon completion of all of the following:
 - (i) Provision of all the information required in the registration form pursuant to Section F; and
 - (ii) 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; or
- (b) Performance of an inspection by the Code Enforcement Office not less than once every 3 years to determine compliance with this Section; and
 - (c) All requirements of this Section have been met.

H. Procedures for Inspections and Self-Certification

1. If the owner desires an inspection to verify compliance with this Section, the following shall apply:
 - (i) 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 this Section.
 - (ii) The Code Enforcement Officer shall inspect the property subject to the requirements set forth in this Section. If the property is in compliance with this Section, the permit will be issued.
2. If the owner prefers to self-verify compliance with this Section, as set forth above, the following shall apply:
 - (i) 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 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 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 this Section.
 - (ii) Any owner that provides materially false or misleading information on the self-certification form shall be in violation of this Section and shall also be subject to the penalties of perjury in addition to the penalties found in this Section.
 - (iii) The Code Enforcement Officer has the right, but not the obligation, to inspect the subject property regardless of the submission of the self-certification form.
 - (iv) The Code Enforcement Officer shall review the self-certification form, and other required documentation and if, warranted, issue the rental permit.

I. Notice of Violation; Method of Service.

1. If the Code Enforcement Officer determines that there are reasonable grounds to believe that premises are being maintained in violation of this Section, that officer shall give notice of the alleged violation to the owner or owner's agent of the premises.

2. Such notice shall 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.
3. Such notice shall state that all health, safety and maintenance violations must be corrected immediately per an Order to Remedy. 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. Such notice shall also state that, if upon re-inspection a violation still exists, the Code Enforcement Officer shall order that the rental permit be revoked and the structure vacated.
4. Upon such re-inspection, any remaining health, safety and maintenance violations, or other violations of the Uniform Building Code, New York State Uniform Fire Prevention and Building Code and Plattsburgh City Code shall result in the revocation of the rental permit and an order to vacate the structure.
5. Any party aggrieved by this action may pursue judicial relief in a Court of competent jurisdiction.

J. Retaliatory Actions

1. No person shall institute or maintain an action for eviction because the occupant has reported a violation of this Section or a related provision of the City Code to the Code Enforcement Officer or other City employee.
2. No person shall cause any service, facility, equipment or utility required under this Section to be removed, shut off or discontinued in retaliation for a complaint.

K. Content of Rental Permit

1. The rental permit issued under this chapter shall contain the following information:
 - The address, type of structure, and structure classification;
 - The date of inspection or date of self-certification statement, whichever is applicable;
 - The date of issuance;
 - The expiration date;
 - Number of dwelling units and/or bedrooms suitable for occupancy;
 - 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,
 - A statement indicating whether the structure is equipped with a sprinkler system;
 - Local contact information including name, address and phone number for the owner or owner's designated representative; and

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.

L. Transferability, Posting and Notice of Rental Permit

1. A current rental permit issued under this Section shall be invalidated by sale, conveyance, or transfer of the subject property. Upon such sale, conveyance or transfer, the new owner shall be required to obtain a rental permit in conformance with this Section. 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.
2. Commencing January 1, 2021, all written rental agreements for High Occupancy Rental Units within the City of Plattsburgh 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 Plattsburgh Rental Permit Law, a copy of which is available in the City Hall, 41 City Hall Place, Plattsburgh, New York, 12901, or via the City's website.

M. Exemptions

1. Any dwelling unit or rental unit located on property owned by the State University of New York or the Plattsburgh Housing Authority is subject to an existing inspection protocol and is therefore exempt from this Section.
2. Any property used as a "Nursing Home", as defined in this Chapter is exempt from this Section.
3. This Local Law shall take effect upon approval by the Mayor and filing with the New York Secretary of State