



RESOLUTION 2018-514

ADOPTED

DOC ID: 11064

Adopt Local Law No. 3 of 2018 - A Local Law for Landlord Rental and Property Owner Registration

WHEREAS, by resolution dated March 4, 2013, the Cheektowaga Town Board adopted the Landlord Licensing Law of the Town of Cheektowaga (now known as Chapter 194 of the Code of the Town of Cheektowaga, entitled "Rental Property"), and

WHEREAS, the Cheektowaga Town Board has recommended that the current law be repealed and that a new "Local Law for Landlord Rental and Property Owner Registration" in the Town of Cheektowaga be enacted in its place; and

WHEREAS, Local Law No. 3 of the Year 2018, entitled "A Local Law for Landlord Rental and Property Owner Registration" in the Town of Cheektowaga has been prepared and approved by the Town Attorney; and

WHEREAS, in accordance with the provisions of the Town Law/Municipal Home Rule Law of the State of New York, a public hearing was held on the 9th day of October, 2018 at 7:00 P.M. at the Town Hall, 3301 Broadway, Cheektowaga, New York, at which hearing all interested parties were given an opportunity to be heard as to whether the existing Rental Property Law of the Town of Cheektowaga should be repealed and whether Local Law Intro No. 2018-3 of the Year 2018 entitled "Local Law for Landlord Rental and Property Owner Registration" should be enacted, and

WHEREAS, it is the public interest to enact this local law, NOW, THEREFORE, BE IT

RESOLVED, that Local Law No. 3 of the Year 2018, entitled "Local Law for Landlord Rental and Property Owner Registration", which is attached hereto and made a part hereof, be and the same is hereby enacted, and BE IT FURTHER

RESOLVED, that Local Law No. 3 of the Year 2018 shall be effective as of January 1, 2019, and BE IT FURTHER

RESOLVED, that the Town Clerk shall file one (1) certified copy of this local law in her office and one (1) certified copy with the Secretary of State.



LOCAL LAW NO. 3 OF THE YEAR 2018

A LOCAL LAW TO FOR LANDLORD RENTAL AND PROPERTY OWNER REGISTRATION

S. 194-1 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 Town of Cheektowaga has a meaningful, efficient and effective means of communicating with those persons and companies who own rental properties and unoccupied properties. This Chapter is to protect the public health, safety and general welfare of the people and to alleviate conditions of substandard housing, including slums and blight.

S. 194-2 Definitions

BUILDING - Any improved real property, residential or mixed use (commercial- residential), located within the Town of Cheektowaga, that is non-owner 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.

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

PROPERTY OWNER REGISTRATION CERTIFICATE- A form created by the Town of Cheektowaga and issued to the owner of rental property or unoccupied property once the Property Owner Registration Statement has been received by the Town of Cheektowaga, reviewed and deemed complete.

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.

HOUSING CODE - All state and local laws, codes, ordinances, rules and regulations for the establishment and maintenance of housing standards.

VIOLATION NOTICE - A notice issued in accordance with any violation of the Housing Code

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 non-owner 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 Town of Cheektowaga, 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.

TOWN- Town of Cheektowaga, exclusive of the Villages of Sloan and Depew.

S. 194-3 Property Registration Requirements; Exemptions

- A. Registration required. No person or entity shall allow to be occupied, or rent to another for occupancy, any single family or multiple family residential property unit unless the owner has first obtained a property owner registration certificate.
- B. Exemptions. The provisions of this chapter shall not apply to; hotels; motels; bed-and-breakfast establishments; rooming or boarding houses; hospitals; nursing homes; or other dwelling units which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of the users, patients or tenants.

S. 194-4 Application for Registration

- A. The owner of a building constituting a rental property or unoccupied property shall register the same within 60 days of the effective date of this Chapter on a form approved by the Town of Cheektowaga. Any owner subject to this Chapter acquiring a building after the adoption of said local law, which is a rental property or unoccupied property, shall register the same within 30 days of acquisition on the same form. This form shall be known as a "Property Owner Registration Statement" which shall be signed by the owner. A Property Owner Registration Statement shall be completed and filed for each building constituting a rental property or unoccupied property.

The Property Owner Registration Statement shall contain the following:

- a) Name, principal residence address, principal business address and telephone number of the owner.
- b) If the owner is an association, limited liability partnership, joint tenancy, tenancy in common or tenancy by the entirety, then each and every owner or general partner shall be indicated on the application
- c) If the owner is a corporation, the principal place of business of the corporation must be provided and the name, title and residence address of all officers, directors, managing or general agents must be included on the application
- d) If the owner has designated an agent or managing company, then the name, principal residence address, principal business address and telephone number of such agent or managing company must be included in addition to that of the owner.
- e) It shall be the responsibility of the owner to properly register any change of address, agent or any other information which occurs after the filing of the application.
- f) For purposes of this law, a post office box shall not be accepted as the owner's address. Further, the building intended to be licensed shall not be accepted as the owner's address unless it is the principal place of residence of the owner.
- g) The owner shall specify the address to which all notices and invoices for fees are to be forwarded.
- h) If the owner does not reside within the County of Erie (New York State), the owner must designate a property manager located in the County of Erie (New York State) who can accept service of process. Owner must provide name, address and telephone number of property manager who resides in the County of Erie (New York).

- B. 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. Failure to provide such information shall be grounds to deny a Property Owner Registration Certificate.

S. 194-5 Issuance of Denial of License

- A. After receipt of the Property Owner Registration Statement for a Property Owner Registration Certificate, the receiving office shall review same to ensure said application contains all of the required information. If the application is deemed complete, the Town shall forward the Property Owner Registration Certificate to the owner within 30 days. If said Statement is deemed incomplete, the Town shall notify the owner, and the owner shall have 30 days in which to supply the required information. If the required information is not supplied by the owner, the Certificate shall be denied.
- a. **Vacant units.** When a Property Owner Registration Certificate has been denied or revoked, no further rental and occupancy of dwelling units then vacant shall be permitted until a Property Owner Registration Certificate has been issued.

- b. Occupied units.** In addition to other penalties under this chapter, when a Property Owner Registration Certificate has been denied or revoked, the dwelling unit(s) containing such violations shall be vacated after the Town provides a notice to the owner and makes an attempt to notify the “occupants” of the dwelling unit(s) containing said violations. Such notice shall direct the owner and occupants of the dwelling unit(s) containing such violations to vacate within a 90 day period of time. The Town may provide a reasonable period for the owner to correct such violation. For the owner, such notice shall be mailed by first class mail to the owner at the address provided by the owner pursuant to §194-4 (A)g of this chapter. For the occupants, such notice shall be mailed to the “Current Occupant” at the dwelling unit. Vacated dwelling units shall not be reoccupied until a Property Owner Registration Certificate has been issued.
- c. Occupied units; hazard.** In addition to other penalties under this chapter, any Certificate may be denied or revoked if the property has been issued a Notice of Violation from the Office of Neighborhood Preservation in which there is a condition that adversely affects or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of the person(s) occupying the dwelling(s). Compliance of the Notice of Violation must be submitted to the issuing office with a completed Registration Statement in order to request a new Registration Certificate

S. 194-6 Effect of Denial or Failure to Comply

- A. Effect of failure to submit the Property Owner Registration Statement or denial of the Property Owner Registration Statement or if the owner fails to supply the required information to complete the Statement; the owner shall be subject to the following fines:
1. \$250 for every 30-day period until an acceptable Statement is submitted up to \$1000

B. Recourse if fine not paid.

If the owner neglects or refuses to pay the fine as stated in subsection 194-6(A)1. of this section within 30 days after notification, the Town shall add any such fine onto the owner’s property tax bill, and it shall become a lien on the property.

S. 194-7 Certificate Fee

- A. The fee to file a Property Owner Registration Statement and the fee to renew the Property Owner Registration Certificate is \$20 every two (2) years. 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, or the Registration Certificate is revoked due to 194-5(A)c at which time a new Registration Statement must be completed and approved.

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

S. 194-8 Effective Dates

This Chapter shall be effective January 1, 2019.

S. 194-9 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.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Brian Nowak, Councilmember
SECONDER: Diane Benczkowski, Supervisor
AYES: Adamczyk, Hammer, Kaminski, Meyers, Nowak, Benczkowski

State Of New York
 Erie County
 Office Of The Clerk Of The
 Town of Cheektowaga

ss:

This is to certify that I, *Vickie L. Dankowski*, Clerk of the *Town of Cheektowaga*, in the *said County of Erie*, have compared the foregoing copy of resolution with the original resolution now on file at this office, and which was passed by the Town Board of the *Town of Cheektowaga*.

in said *County of Erie*, on Tuesday, October, 23, 2018, and that the same is a correct and true transcript of such original resolution and the whole thereof.

(Seal)

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Town on Wednesday, October, 24, 2018.



CLERK OF THE TOWN BOARD, TOWN OF CHEEKTOWAGA, NY