

Chapter 144. Building Code Administration and Enforcement

§ 144-18. Rental registry.

[Added 12-12-2019 by L.L. No. 6-2019; amended 9-10-2020 by L.L. No. 3-2020]

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 multifamily 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 turnover of residents therein. The intent of this section 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.

B. Definitions. The following definitions will apply to this section:

DWELLING UNIT

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

FAMILY

- (1) The term "family" means:
 - (a) 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
 - (b) Up to four unrelated persons living together in a single housekeeping unit and using certain rooms and sanitary and cooking facilities in common; or
 - (c) Five or more persons occupying a dwelling unit and living together as the functional equivalent of a family.
- (2) 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:
 - (a) Share the use of the entire dwelling unit.
 - (b) Share the cost of rent, food, utilities, property maintenance and other household expenses.
 - (c) Intend to reside together on a permanent basis and have a stable relationship.
- (3) The following facts shall be considered in deciding whether a group intends to reside together on a permanent basis and has a stable relationship:
 - (a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools.
 - (b) Whether the group members regularly dine together.
 - (c) 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.
 - (d) Employment in the local area.
 - (e) Joint or common ownership of household furnishings.
 - (f) 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 residences 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 multifamily dwelling.

MULTIFAMILY 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.

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 section.

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 thirty-day continuous period.

RENTAL BUILDINGS AND STRUCTURES/RENTAL UNIT

- (1) Dwelling units, rooming houses, rooming units, two-family dwellings, or multiple dwellings which occupied by one or more persons, none of whom is the record titleholder; or
- (2) 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 nontransient guests in which no private kitchen facilities shall be provided to guests.

SINGLE-FAMILY RESIDENCE

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

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.

C. Rental certification and registration information.

- (1) Commencing April 1, 2021, owners of high occupancy rental units which are located in the City of Plattsburgh shall complete and sign a registration form provided by the Code Enforcement Office for each mailing address associated with rental buildings and/or structures owned. If the owner owns more than one rental building or structure located at one mailing address, then one form shall be completed for that address. If the owner owns properties with more than one mailing address, then separate forms must be completed for each separate mailing address. The form shall indicate the name, mailing address, and telephone number for each and every owner, and if the owner is a corporation, limited liability company, partnership, or other business entity, the name, address, phone number and e-mail address of a responsible agent for that owner (the "owner's agent"), and the mailing address of the rental building or structure for which a rental registry certification is sought, the number of dwelling units contained within each rental building or structure, the number of occupied bedrooms within each single-family residence, daytime and evening telephone numbers of the owner and, if applicable, the owner's agent, the approximate 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 indicate whether a lease agreement is in effect. The form shall indicate an address for receipt of notices by mailing under this section. The owner 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 self-verification section, described in Subsection E below, whereby the owner of high occupancy rental units shall affirm, 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 nonconforming use will be eligible to receive a rental registry certification. If the Code Enforcement Officer declines to issue a rental registry certificate, then the owner shall have the right to appeal that decision to the Zoning Board of Appeals pursuant to the Code of the City of Plattsburgh, Section **360-54D(1)**.
- (4) A rental registry certification shall be issued by the Code Enforcement Officer and shall be valid for three years from the date of issuance. However, if there is an event or change in circumstance that would render the information in the registration form inaccurate, within five business days of that event or change in circumstance the Owner shall apply for a new rental registry certification. Owners and lessors, or their respective agents, shall, upon request, make available a copy of said rental registry certification to the person(s) in possession or occupancy. Rental registry certifications may not be assigned or transferred.
- (5) A rental registry certification for a specific property shall not be granted to an applicant if that specific property is in violation of any Uniform Building Code or City of Plattsburgh Code, ordinance or local law (hereinafter "violations") or if that applicant 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") for that specific property.
 - (a) 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.
 - (b) In the event that the applicant has accrued violations or unpaid monies, such rental registry certification shall be denied if such violations or unpaid monies relate to a parcel of real property for which the application is made.
 - (c) In the event that the applicant has accrued violations or unpaid monies, such rental registry certification shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.
 - (d) All requirements set forth herein shall also apply to nonperson entities including but not limited to an LLC, corporation, or trust. If an application for a rental registry certification is denied, then the owner shall have the right to appeal that decision to the Zoning Board of Appeals pursuant to the Code of the City of Plattsburgh, Section **360-54D(1)**.

D. Inspections; issuance of notices; occupancy limitations.

- (1) Upon the receipt of a registration form, the Code Enforcement Officer, in their sole discretion, may request an inspection of the subject property. If a request for an inspection is denied, then the Code Enforcement Officer may deny the application for the rental registry certification. The applicant shall have the right to appeal that denial to the Zoning Board of appeals pursuant to the Code of the City of Plattsburgh, Section **360-54D(1)**. Further, the Code Enforcement Officer may inspect the subject property:
 - (a) If requested in writing by the owner, owner's agent or occupant of a rental building(s) or structure(s) pursuant to this section;
 - (b) Upon receipt of a registered complaint; however, if a registered complaint is made by a tenant the complaint must also state that said tenant first complained to the landlord therein and the concern was not adequately remedied within seven days of the complaint. The tenant's complaint must be affirmed as true under the penalties of perjury;
 - (c) Upon the sale, transfer or conveyance of a multifamily dwelling that will be utilized as a rental building/structure;
 - (d) Upon the sale, transfer or conveyance by more than four unrelated individuals who do not otherwise qualify as a "family" or "functional equivalent of a family";
 - (e) Upon the application for a building permit for a multifamily dwelling that will be utilized as a rental building/structure.

(f) 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 section.
- (3) The Code Enforcement Officer or his/her designees are authorized to enter common areas accessible to the general public 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. Procedures for inspections and self-verification form.

- (1) If the owner desires an inspection to verify compliance with this section, the following shall apply:
 - (a) At least 30 days prior to initial occupancy, or 30 days prior to the expiration date of a current Rental Registration Certification, 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.
 - (b) The Code Enforcement Officer shall use diligent efforts to inspect the property forthwith subject to the requirements set forth in this section.
- (2) As part of the registration form, the Owner may elect to self-verify compliance with the relevant Codes, in lieu of an inspection, as set forth above, and the following shall apply:
 - (a) The form for self-verification shall be made available by the Code Enforcement Officer and shall be completed, signed and affirmed by the record titleholder(s) under penalties of perjury at least 30 days prior to initial occupancy or 30 days prior to the expiration date of a current rental registry certification, 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.
 - (b) Any owner that provides materially false or misleading information on the self-verification 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.
 - (c) The Code Enforcement Officer has the right, but not the obligation, to inspect the subject property regardless of the submission of the self-verification form provided reasonable suspicion exists to believe that the self-verification form contains materially false statements. In the event that the Code Enforcement Officer finds that the self-verification form contains materially false information then he shall revoke the owner's right to self-verification for a term not to exceed five years. The applicant shall have the right to appeal that determination to the Zoning Board of appeals pursuant to the Code of the City of Plattsburgh, Section **360-54D(1)**.
 - (d) The Code Enforcement Officer shall review the self-verification form and other required documentation and, if warranted, issue the rental registry certification.

F. Fees.

- (1) Rental registry certification fees, rental inspection fees, reinspection fees and penalties will be charged in the amount set forth in the schedule of fees adopted by the City of Plattsburgh Common Council by resolution.
- (2) Rental registry certifications shall be issued upon completion of all of the following:
 - (a) Provision of all the information required in the registration form pursuant to Subsection **C, D** and/or **E**; and
 - (b) Verification of compliance with this section through one of the following methods:
 - [1] Completion and submission of a self-verification 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
 - [2] Performance of an inspection by the Code Enforcement Office to determine compliance with this section; and
 - [3] All requirements of this section have been met.

G. 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; however, in the event the Code Enforcement Officer observes violations that create an imminent risk to health, safety or welfare, the Code Enforcement may pursue condemnation of the premises. For nonemergency violations, the Code Enforcement Officer shall return at the date specified in the notice 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 reinspection a violation still exists, the Code Enforcement Officer may seek compliance pursuant to this section.
- (4) Upon such reinspection, 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 issuance of an appearance ticket returnable in the City of Plattsburgh City Court, or other court of competent jurisdiction, pursuant to the provisions of Article 150 of the Criminal Procedure Law seeking fines and injunctive relief pursuant to Subsections **C** and **D** of this section, and if applicable, revocation of the rental registry certification and an order to vacate the structure. In the event that the City pursues an action against an owner in a court of competent jurisdiction for any violation described herein, then as part of the relief sought, the City may request that the court revoke all of the owner's rental registry certificates for any rental building or structure located within the City.
- (5) Any party aggrieved by this action may appeal to the Zoning Board of Appeals pursuant to the Code of the City of Plattsburgh, Section 360-50(D)(1), and/or pursue judicial relief in a court of competent jurisdiction.

H. 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.

I. Content of rental registry certification.

(1) The rental registry certification issued under this section shall contain the following information, as well as any additional information required by the Code Enforcement Officer:

- (a) The address, type of structure, and structure classification;
- (b) The date of the inspection or date of self-verification statement, whichever is applicable;
- (c) The date of issuance;
- (d) The expiration date;
- (e) Number of dwelling units and/or bedrooms suitable for occupancy;
- (f) A statement indicating whether the structure is equipped with a fire alarm system, single station smoke detectors, and carbon monoxide detectors as required by Code;
- (g) A statement indicating whether the structure is equipped with a sprinkler system;
- (h) Local contact information including name, address and phone number for the owner or owner's designated representative; and
- (i) The maximum number of occupants permitted for each and every rental dwelling unit.

J. Transferability, posting and notice of rental permit.

- (1) A current Rental Registration Certification 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 Registration Certificate in conformance with this section. The owner or owner's agent of a rental building or structure shall deliver a copy to each tenant therein and retain a signed receipt proving delivery which shall be provided to the Code Enforcement Officer on request.
- (2) Commencing February 1, 2021, all written rental agreements for high occupancy rental units with the City of Plattsburgh must contain the following language in ten-point or larger type: "Please take notice that you and the landlord each have certain rights and responsibilities under The City of Plattsburgh Rental Registry 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."

K. 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.^[1]

[1] *Editor's Note: See § 360-5 for said definition.*