

LOCAL LAW 3 OF 2004 OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, REQUIRING LANDLORD REGISTRATION AND DESIGNATION OF AGENTS OF RENTAL PROPERTIES, PROVIDING PENALTIES FOR VIOLATION OF THIS LOCAL LAW AND RECOMMENDING A NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE

Sponsored By: Laws and Rules: Aldermen DiBella, Burns, Reynolds, Brown, Gonyea

**WHEREAS**, a request has been made to adopt legislation requiring landlord registration and designating agents for rental properties; and

**WHEREAS**, this legislation is in the best interests of the City of Kingston; and

**WHEREAS**, this action requires that a determination of environmental significance in accordance with the State Environmental Quality Review Act be performed.

**NOW, THEREFORE, BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON AS FOLLOWS:**

Rental Properties

ARTICLE I

Identification of Owners and Agents

**SECTION-1.** That all ordinances and local laws, or parts thereof, inconsistent herewith are hereby repealed.

**SECTION-2. DEFINITIONS**

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

1. ACTION or PROCEEDING - Any action or proceeding which may be instituted in the City Court of the City of Kingston or the County Court of the County of Ulster or the Supreme Court of the County of Ulster or any Court of competent jurisdiction with an alleged violation of any ordinance or law of the City of Kingston.
2. BUILDING - Any improved real property, residential or mixed use (commercial-residential), located within the City of Kingston, that is non-owner occupied.
3. RENTAL PROPERTY - Includes all properties which are either rented, leased, let or hired out to be occupied for residential or mixed use (commercial-residential), and is non-owner occupied.
4. 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.
5. PROCESS - A summons or any notice, mandate or any other paper process issued under any provision of the code of the City of Kingston or any law or regulation of the State of New York.
6. IDENTIFICATION OF BUILDING - It is required that the house number be placed on the building in a conspicuous place.

**SECTION-3. REGISTRATION OF OWNER**

1. The owner of a property constituting a rental property shall register the same with the

Building Safety Division of the Kingston Fire Department within sixty (60) days of the effective date of this local law on a form approved by the Building Safety Division of the Kingston Fire Department. This form shall be known as a Landlord Registration Statement which shall be signed by the owner under oath.

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 local law as required herein 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 local law.

**SECTION-4. Landlord Registration Statement**

1. Every owner of a rental property as above defined shall file with the Building Safety Division of the Kingston Fire Department within sixty (60) days after the adoption of this section, a Landlord Registration Statement on forms to be supplied by the Building Safety Division of the Kingston Fire Department, containing the following:

- A. A description of the premises by street number or block and lot number, including tax identification number.
- B. The owner's name, residential address, and mailing address, together with his/her business telephone number, home phone number, cell phone number, fax number, as well as e-mail address or, if such owner is a corporation, the name and address of such corporation and the name, residence, business address together with the residence, business telephone numbers, cell phone numbers, fax numbers and e-mail addresses if any of all officers.
- C. Designation of Managing Agent.

In the event the owner does not reside in Ulster County, then the owner must designate a Managing Agent. If a Managing Agent is required, then the owner

shall provide the following information to the Building Safety Department of the City of Kingston:

- (i). The name, residence, business and e-mail address and residence, business and fax telephone numbers of a natural person, eighteen (18) years of age or over, who actually resides within the County of Ulster, 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 dwelling, 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 statements a written consent to such designation signed by such managing agent. An owner who is a natural person and who meets the requirements of this subsection as to the location of the residence or place of transacting business of a managing

agent may designate him/herself as such managing agent.

- (ii). The owner shall be obligated, at all times, to keep this information updated and when there is a change in ownership or a change in the managing agent, the owner shall be obligated to update the information by amending the Landlord Registration Statement within fifteen (15) days from the date of any such change.
  - (iii). Nothing contained in this section shall be construed as preventing a corporation which is an owner of real property from designating as its managing agent with respect thereto any officer of such corporation who meets the requirements of this subsection as to location of the residence or the place of transacting business of the managing agent.
  - (iv). 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 herein after provided.
  - (v). Upon completion and execution and submission of the Landlord Registration Statement as aforesaid, said registration shall be reviewed by the Building Safety Division of the Kingston Fire Department or their designee for adequacy. Should the Building Safety Division of the Kingston Fire Department and/or their designee determine that said application is incomplete, defective or untruthful for any reason, said application shall be marked "REJECTED" and returned to the filer. A rejected application shall not be deemed to comply with the following provisions of this chapter.
  - (vi). It shall be the responsibility of each owner to timely notify the Building Safety Division of the Kingston Fire Department whenever the information provided in the Landlord Registration Statement has become outdated or for any reason is no longer accurate.
  - (vii). A copy of the approved application shall be required and shall be a condition precedent before the owner shall be entitled to rent any unit contained in the rental property.
  - (viii). In the event that the owner of the rental property or mixed use property does not reside in the County of Ulster, New York, then the owner shall be obligated to hire a managing agent.
- D. Where, after filing of any Landlord Registration Statement in relation to any rental property under the applicable provisions of this law, the owner of such property shall have granted or transferred his/her right, title or interest therein or in any part thereof, such owner shall file with the Building Safety Division of the Kingston Fire Department within fifteen (15) days after such grant or transfer a written statement which under oath shall contain the name and residence, business addresses, business and home telephone, cell phone numbers, fax numbers and e-mail of the grantee, transferee or other successor of such right, title or interest, or if such grantee,

transferee or successor is a corporation, the name and address of such corporation including the names of all officers their addresses, business and residence phone and cell numbers as well as e-mail addresses and fax numbers. If the owner is unable with due diligence, to secure the aforementioned information from the purchaser, then the owner shall immediately notify the Building Safety Division of the Kingston Fire Department in writing of this fact. After sending this notice, the owner shall thereafter have no further obligation with respect to this provision.

- E. Where, after the filing of any Landlord Registration Statement with the Building Safety Division of the Kingston Fire Department pursuant to the applicable provisions of this law, any change other than a designation of a different managing agent or a change of ownership or interest occurs in any name, residence or any business address of a list of officers required to be included in such statement, the owner, within fifteen (15) days after such change, shall file in duplicate on forms to be furnished by the Building Safety Division of the Kingston Fire Department, a statement under oath setting forth the particulars of such change so as to supply the information necessary to make currently correct the last Landlord Registration Statement filed pursuant to the applicable provisions of this section.
  - F. 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.
  - G. An owner may terminate such designation by filing with the Building Safety Division of the Kingston Fire Department a sworn written statement designating a new managing agent made in conformity with the provisions herein above cited.
2. Any Landlord Registration Statement or designation of a managing agent required to be filed with the Building Safety Division of the Kingston Fire Department 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 officer thereof, or if such owner is a partnership, by a partner thereof, and said statements must be sworn to under the penalties of perjury.
  3. Any such Landlord 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 Kingston or by any proper prosecutorial agency against the owner or managing agent of a rental property.

**SECTION-5. INSPECTION REQUIREMENTS**

1. The Building Safety Division of the Kingston Fire Department or their authorized designee or agent shall make provisions for inspections of each rental property, which is subject to the provisions of this chapter and shall notify each owner and/or managing agent of each rental property as to the time and place of such inspection. The inspection shall take place at a minimum of every twenty-four (24) months. The inspection shall be for the purpose of determining compliance with all applicable rules and regulations concerning safety and maintenance of all rules and regulations applicable to said rental property, including the

Code of the City of Kingston and all other such rules and regulations and laws of the state of New York. In addition, the owner and/or managing agent shall be obligated to review with the Building Safety Division of the Kingston Fire Department and their designee or agent the contents of the Landlord Registration Statement to determine if all said information is up to date, complete and accurate in all respects.

2. Any inspection report issued pursuant to Subsection One (1), of this section which reveals the presence of a violation shall be remedied by the owner within the time stated in the report. Failure to bring any building and/or rental property into conformance with such report and/or to remedy within the time set forth therein shall constitute a violation of this chapter. It being expressly understood that this provision shall not constitute the exclusive remedy of the City of Kingston, but shall be an addition thereto.

**SECTION-6. APPLICATION FOR SEARCH WARRANTS**

At the request of the Building Safety Division of the Kingston Fire Department the Corporation Counsel is authorized to make application to the City Court of the City of Kingston or any other court of competent jurisdiction for the issuance of a search warrant to be executed by a police officer in order to conduct an inspection of any premises believed to be subject to the registry jurisdiction of this Article. The Building Safety Division of the Kingston Fire Department may seek a search warrant whenever the owner and/or managing agent fails to allow inspections of any dwelling unit contained in the rental property where there is a reasonable cause to believe that there is a violation of this Article or a violation of the New York Uniformed Fire Prevention Building Code Act or of any code of the City of Kingston or any applicable fire code.

**SECTION-7. CONFIDENTIALITY**

Nothing in this section shall prevent any member of the public, prospective tenant or any resident of the City of Kingston from determining whether any particular rental property has been registered pursuant to this local law. The general public shall have full access to said Landlord Registration Statements upon filing of the proper Freedom of Information Act application.

**SECTION-8. SERVICE OF PROCESS**

The City of Kingston shall have a choice of enforcing this local law by seeking civil penalties or by instituting a criminal proceeding or may choose to do both.

1. Criminal Proceeding - A summons or appearance ticket for any violation of this local law may be served in the County of Ulster, New York as defined within the meaning of New York Criminal Procedure Law, Section 150.40. In the event that the owner does not reside in the County of Ulster, then the owner shall be obligated to designate a managing agent, who maintains a bonafide residence in the County of Ulster.
2. A designating managing agent of an owner may be served with a notice of violation, order of remedy, order of violation, an appearance ticket or other service of process, whether criminal or civil, pursuant to and subject to the provisions of law as if actually served upon the owner.
3. No owner who designates a managing agent pursuant to the provisions of this Article may assert the defense of lack of notice or lack of in personam jurisdiction-based solely upon

the service of process upon his designated agent.

**SECTION-9. SERVICE OF PAPERS - NOTICE OF VIOLATIONS**

1. By delivering to and leaving a copy of the same with any person or persons violating, or who may be liable under any of the several provisions of this local law; and
2. By registered or certified mail to the most current address on file in the Landlord Registration Statement upon the owner and/or managing agent; and
3. If none is on file to the most current address in the City Assessors Office by registered or certified mail to the owner and/or managing agent; and
4. If such person or persons cannot be served by any of the aforesaid methods after diligent search shall have been made for him/her or them, then such notice or order may be served by posting the same in a conspicuous place upon the rental property where such violation is alleged to exist, or to which such notice may refer, or which may be deemed unsafe or dangerous, which shall be equivalent of personal service of said notice upon all parties, including the owner and/or managing agent for whom such search shall have been made; or
5. By any other method or service authorized pursuant to Article III of C.P.L.R.
6. Notice by mail to owners residing out of state. If the person or persons or any of them to whom said notice is directed, do not reside in the County of Ulster and have no known place of business therein, the same may be served by delivering to or leaving with such person or persons or either of them a copy of said notice. If said person or persons cannot be found with a due diligence search, then by posting a copy of the same in a manner aforesaid and depositing a copy thereof in a post office in the City of Kingston, enclosed in a sealed wrapper addressed to said person or persons at his/her last known place of residence with the postage paid thereon, and said posting and mailing a copy of said notice shall be equivalent to personal service of said notice.

**SECTION-10. RENTAL PERMIT AND FEES**

1. No rental property and/or building as defined herein shall be occupied by anyone including any tenants without a valid rental permit.
2. The Building Safety Division of the Kingston Fire Department shall issue such permit after receipt of a valid Landlord Registration Statement as discussed herein. Such rental permit shall be valid until such time as the owner or any new owner is required to file a new Landlord Registration Statement.
3. The owner and/or managing agent must present the previous rental permit at the time that the new Landlord Registration Statement is submitted.

**SECTION-11. REVOCATION**

Any permit issued pursuant to this local law may be revoked or suspended by the Building Safety Division of the Kingston Fire Department after notice to the owner and an opportunity for the owner to be heard upon a finding by the Building Safety Division that the requirements of this local law or any conditions of said permit have been violated or that the premises are not being maintained in accordance with the requirements of any applicable law, rule or regulation.

**SECTION-12. VIOLATIONS AND PENALTIES**

Violations of this local law will constitute an offense with the meaning of the Penal Law of the State of New York, punishable as provided for herein. In addition, a violation of any provision of this local law shall constitute a municipal infraction and will be subject to applicable penalties under this local law and the City of Kingston may choose to enforce this local law as a criminal or civil matter or both. Any owner who violates, disobeys, neglects or refuses to comply with any of the terms of this local law shall be subject to a fine, of not more than Five Hundred (\$500.00) Dollars. Each week a violation continues shall be deemed a separate offense and so subject the owner to an additional fine of up to Five Hundred (\$500.00) Dollars. In addition, if the City of Kingston chooses to proceed under this law as a criminal offense, the violation of this law shall be subject to a fine of up to Five Hundred (\$500.00) Dollars and/or up to thirty (30) days in jail, it being understood that each week a violation continues shall be deemed a separate offense subjecting the offender to additional weekly fines of up to Five Hundred (\$500.00) Dollars and/or additional jail sentences of up to thirty (30) days.

**SECTION-13.** That this local law shall take effect upon compliance with all applicable provisions of New York State Municipal Home Rule Law.

**SECTION-14.** That a negative declaration of environmental significance has been recommended.

**SECTION-15.** That the law will be re-examined in Committee twenty-four (24) months after enactment.

**SECTION-16.** If any Section(s) of this Local Law shall be declared unconstitutional and/or invalid, all remaining Sections of this law shall be deemed to be in full force and effect.

Submitted to the Mayor this 24<sup>th</sup> day of  
May 2004.  
(Original signed by City Clerk K. Janeczek)  
Adopted by Council on May 4, 2004.

Approved by the Mayor this 24<sup>th</sup> day of  
May 2004.  
(Original signed by Mayor James Sottile)