LOCAL LAW NO. ___ OF 2015
TO AMEND CHAPTER 177 OF THE CODE
OF THE TOWN OF IRONDEQUOIT

Be it enacted by the Town Board of the Town of Irondequoit as follows:

Section 1. Section 177-1 of the Code of the Town of Irondequoit is hereby amended to read:

§ 177-1. Legislative intent.

Residential properties are significant assets and a critical investment in the Town of Irondequoit because of their impact on community character, property values and overall quality of life. To maintain our neighborhoods and facilitate effective code enforcement, the Town must be able to efficiently communicate with property owners regarding maintenance and property conditions.

In instances when residential properties are rented, the Town Board has determined that accurate and current contact information is needed to facilitate timely communication with property owners regarding potential issues related to property conditions and/or violations of the Town Code and/or the laws of the State of New York. The Town Board has also determined that the inability to make timely contact with the owners of such residential rental properties may result in extended physical deterioration of housing stock and/or sub-standard living conditions for Town residents. The Town Board finds that establishing registration requirements for rental properties is in the best interest of public health, safety, and welfare and the good order and governance of the Town will be promoted and enhanced by the enactment of registration requirements for such rental properties and their owners through the enactment of the provisions set forth in this chapter.

Section 2. Section 177-2 of the Code of the Town of Irondequoit is hereby amended to read:

§ 177-2. Definitions.

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

CODE ENFORCEMENT OFFICIAL
Full- and/or part-time employees of the Department of Community Development, including the Director of Community Development, Building Inspector, Fire Marshal, Code Enforcement Officer, or others designated by the Director of Community Development.

DEPARTMENT
The Department of Community Development.
DWELLING UNIT
A structure or building, or any part thereof, or any area, room or rooms therein, occupied or to be occupied by one or more persons as a home or residence.

OWNER
The person, persons, or entity shown to be the owner or owners on the current assessment records of a dwelling unit or of a property including one or more dwelling units.

RENT
A return, in money, property or other valuable consideration (including payment in kind or services or other thing of value), for use and occupancy or the right to the use and occupancy of a dwelling unit, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL DWELLING UNIT
A dwelling unit established, occupied, used or maintained for rental occupancy in a one- or two-family home.

RENTAL OCCUPANCY
The occupancy or use of a dwelling unit by one or more persons other than the owner as a home or residence under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use. There is a rebuttable presumption that any occupancy or use of a dwelling unit is a rental occupancy if the owner of the structure or building containing the dwelling unit does not reside in the same structure or building.

RENTAL PROPERTY
A property upon which a building or buildings or structure or structures include one or more rental dwelling units is located.

SECURED BY NORMAL MEANS
A building secured by means used in the design and approved plans for the building.

Section 3. Section 177-5 of the Code of the Town of Irondequoit is hereby amended to read:

§ 177-5. Application for rental occupancy registration.

A. Application for a certificate of registration of a rental occupancy and/or for a rental dwelling unit shall be made in writing on a form provided by and to be filed with the Department for that purpose. A separate application shall be made for each rental dwelling unit or, where more than one rental dwelling unit exists on a
rental property, for each such rental property. In the event that any rental dwelling unit or rental property is owned by more than one person or entity, the application shall be executed by each such owner, except in those instances in which it is owned by an entity in which there are more than 10 owners, in which event the application shall be executed by the chief executive officer of such entity (e.g., president, general partner, managing member). Such application shall contain the following information:

1. The name, address (both street address and any post office address), telephone and facsimile numbers, and e-mail address, if any, of each owner. If any owner is an entity which has fewer than 10 owners (e.g., shareholders, partners and/or members), the application shall also include the name, address (both street address and any post office address), telephone and facsimile numbers and e-mail addresses of each owner (e.g., shareholder, partner, member) and of each officer (e.g., president, vice president, treasurer, secretary, general partner, managing member). If any owner is an entity which has more than 10 owners (e.g., shareholders, partners and/or members), the application shall also include the name, address (both street address and any post office address), telephone and facsimile numbers and e-mail addresses of each officer (e.g., president, vice president, treasurer, secretary, general partner, managing member).

2. The street address of the rental property, including the apartment or unit number of the rental dwelling unit(s), if any.

3. If the rental dwelling unit is occupied as of the date the application is filed with the Department.

4. A description of the building or structure, including the number of rental dwelling units in the building or structure.

5. If any owner does not live within and/or maintain an office or a place of business within the Town, the name, address (street address and any post office address), telephone and facsimile numbers and e-mail address, if any, of the local managing agent or agents or operator of each such intended rental property.

B. Such application shall include an affidavit by the owner affirming that rental dwelling unit(s) meet the following conditions:

1. Rental properties and all rental dwelling units thereon shall comply with all applicable federal, state or local statute, laws, ordinances, codes, rules or regulations, especially the New York State Uniform Fire Prevention and Building Code.

2. Operational smoke and carbon monoxide detectors as required by the New York State Uniform Fire Prevention and Building Code.
(3) Exterior walls, including foundations, shall be maintained. All exterior walls and foundations must be free of holes and crevices.
(4) Exterior doors, windows, skylights and similar openings shall be maintained secured and weather tight.
(5) Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in a safe and sound condition.
(6) Roofs shall be maintained in a weather tight condition, secured by Normal Means.
(7) Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions.
(8) Exterior surfaces shall be maintained in good condition.
(9) Interior living spaces, including kitchen(s), bathroom(s) and bedroom(s), are in compliance with the New York State Uniform Fire Prevention and Building Code.

The affidavit will also affirm that Owner has received and read the following portions of the Town Code and understands the obligation and responsibility to comply with all applicable state and local laws, including but not limited to:

(1) Chapter 94, Brush, Grass and Weeds.
(2) Chapter 192, Solid Waste, Article II, Collection and Disposal.
(3) Chapter 235, Zoning, Article XIV, Off-Street Parking and Loading, § 235-77A.

C. Such application shall be signed by the owner, or by each owner, of the premises, and each such signature shall be notarized.

Section 4. A new section shall be entered as Section 177-6 and the former Sections 177-6 through 177-14 shall be amended as follows:

§ 177-6. Courtesy inspections.

Residents living in a rental dwelling unit subject to the regulations of this Chapter may apply to the Department for a courtesy inspection if they believe the minimum standards set forth in subsection 177-5(B) are not present or being maintained. Applicants shall pay the fee for courtesy inspection set forth § 1-18. The inspection fee is non-refundable.

§ 177-67. Registration application fees.

A. Registration application fee. A nonrefundable registration application fee shall be paid to the Town upon filing each application for a certificate of registration of a rental occupancy and/or for a rental dwelling, in an amount to be set from time to time by the Town Board by resolution. The Town Board resolution may, in its
discretion, but subject to applicable law, establish a schedule or schedules setting different application fees for different categories of applicants or properties.

B. The fees required by this section shall be waived for any applicant that demonstrates to the satisfaction of the Code Enforcement Official that it is a not-for-profit housing development corporation organized under the laws of the State of New York and that it is providing housing for senior citizens or other designated special populations subject to income guidelines established by either federal or state regulation.

§ 177-8. Review of application.

The Code Enforcement Official shall review each application for completeness and accuracy. The Code Enforcement Official shall also review all available information to confirm that the rental property and all rental dwelling units thereon are in compliance with the Town Code or the New York State Uniform Fire Prevention and Building Code at the time the application is made. The application shall be accepted and a certificate of registration shall be issued if, based on all such available information, such application is found to be complete and accurate and if, based on all such available information, the rental property and all rental dwelling units thereon are in compliance with the Town Code or the New York State Uniform Fire Prevention and Building Code. Applications shall be rejected if they are deemed to be incomplete or inaccurate in any way or if the rental property and all rental dwelling units thereon are determined to not be in compliance with the Town Code or the New York State Uniform Fire Prevention and Building Code. Notice to the owner of acceptance or rejection of the application shall be made in writing.

§ 177-9. Term of certificate of registration.

A certificate of registration pursuant to this chapter shall be valid for as long as the information in the application remains complete and accurate, but in no case for more than a period of two years from the date on which the certificate is issued. The owner shall file with the Department a new application in accordance with the requirements of this chapter a) no less than 60 days prior to 1) the expiration of the then current certificate or 2) if sooner, the date set forth in any contract of sale for the closing of transfer of title to the rental dwelling unit or rental property; or b) except for any change in the information provided in the application pursuant to § 177-5(A)(3), in the event that the prior application is no longer complete or accurate, within 30 days following the occurrence of the event or change in circumstances requiring the updating of such information. In the event a new application is not filed if and when required pursuant to Item (a)(2) or (b) of this § 177-9, the existing certificate of registration shall be null and void.

§ 177-10. Record of registrations.
It shall be the duty of the Code Enforcement Official to maintain a record of registrations pursuant to this chapter. Such register shall be kept by owner name and by street address, showing the name and address of the owner, the number of rental dwelling units at such street address, and the date of expiration of registration for such property. Each application shall be maintained in accordance with all record retention requirements applicable to the Town and shall be subject to public disclosure, inspection and copying in accordance with the requirements of the applicable law of the State of New York.

§ 177-11. (Reserved)

§ 177-12. Presumptions applicable to rental registration enforcement and prosecutions.

A. Within the context of this chapter, the presence or existence of any one of the following shall create a rebuttable presumption that a premises is being used as a rental property or a rental dwelling unit:
   (1) There exists a written or oral lease or rental arrangement, payment or agreement for all or any portion of any building or structure located on the property by and between the owner and any tenants, occupants and/or other persons or entities in possession thereof.
   (2) The property is occupied by someone other than the owner, and the owner represents in writing or otherwise, to any person or establishment, business, institution or government agency, that the owner resides at an address other than the rental property.
   (3) Utilities, cable, phone or other services are in place or requested to be installed or used at the premises or any portion thereof in the name of someone other than the owner.
   (4) There are separate entrances for segregated parts of any building or structure located on the property.
   (5) There are partitions or internal doors which may serve to bar access between segregated portions of any building or structure located on the property, including but not limited to bedrooms.
   (6) Any occupant or person in possession thereof does not have unimpeded and/or lawful access to all dwelling units in a building or structure.
   (7) Two or more complete dwelling units, as defined herein or in the Residential Code of New York State, exist in any building or structure located on the property.
   (8) A premises has been advertised in any newspaper, magazine, local advertising publication, or posted or billed as being available for rent.

B. The presumptions set forth above, subject to the limitations contained therein, shall also be applicable to enforcement and prosecution of illegal residential use and occupancy violations under other articles of the Town Code.
C. Nothing herein shall be construed to prevent persons living together with any owner as a two-family unit as defined by the Town Code.

§ 177-13. Penalties for offenses.

Any person or entity which fails or refuses to comply with the requirements of this chapter or violates any provision of this chapter shall be guilty of a violation punishable, for a conviction of any offense, in each instance by a fine of not less than $500 or by imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.

§ 177-14. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in said judgment.

§ 177-15. Effective date.

A. Effective date. This chapter originally took effect January 1, 2008.

Section 5. All references to the term “Code Enforcement Officer” contained in the following subsections of Chapter 177 of the Code of the Town of Irondequoit are hereby deleted and replaced with the term “Code Enforcement Official”:

Section 177-2
Section 177-7(B)
Section 177-8
Section 177-10

Section 6. This chapter, as amended, applies to all rental dwelling units as defined in this chapter. Any rental dwelling unit that holds a current certificate of registration as of the effective date of this local law shall not be required to submit an affidavit pursuant to Section 177-5(B). Renewals of current certificates and new registrations that occur after effective date must comply with all requirements of this chapter, as amended.

Section 7. This law shall be effective upon filing with the Secretary of State of New York, as required by the Municipal Home Rule Law.