

THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, July 15, 2008
5:00 P.M.

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SOMMER

ROLL CALL

Present: **President Sommer**
 Aldermen Brick, Pasiak, Donovan

Absent: **Alderman Schwandt**

Also Present: **Mayor Lawrence V. Soos**
 Attorney Shawn P. Nickerson

AUDIENCE PARTICIPATION – None

COMMUNICATIONS FROM CITY OFFICIALS

II. Attorney

July 11, 2008

Hon. Mayor and Common Council
City Hall, 216 Payne Avenue
North Tonawanda, NY 14120

Re: Local Law #1 for 2008 – Registration of Rental Housing Units

Dear Honorable Body:

Attached for your consideration is a proposed local law, which would establish procedure(s) to identify owners of rental housing units in the City of North Tonawanda, so as to facilitate legal service on such owners or their authorized agents, thereby preserving the city's housing stock and protecting the health, safety and welfare of the city's general public.

As with all local laws, it is necessary this local law be formally laid on the table for a period of at least 7 days wherein it must stay in its final form prior to the adoption of the Common Council. After such adoption, this local law must be referred to the Mayor's office for a public hearing on its provisions. After said public hearing and formal filing with the Secretary of State, this local law will become effective.

Consistent with State law, the appropriate motion for today's action would be to formally lay this local law on the table and allow it to remain so in its final form for at least 7 days prior to adoption.

Very truly yours,
Shawn P. Nickerson
City Attorney

07-15-08

MOVED by Alderman Sommer **SECONDED** by Alderman Pasiak
That the Common Council hereby lays the following Local Law on the table for 7 days:

**RESOLUTION TO ADOPT THE REGISTRATION
OF RENTAL HOUSING UNITS LOCAL LAW**

WHEREAS, the price of real property in the City of North Tonawanda remains below the national average and is therefore an attractive investment, and

WHEREAS, the City of North Tonawanda has experienced an increase in the acquisition of rental housing units by owners who reside or have a principal place of business either outside Niagara County or an adjoining county, and

WHEREAS, some owners do not reside within Niagara County or an adjoining county and do not have a respective property manager, agents or other person responsible for the maintenance of the leased premises, and

WHEREAS, as a result, the Department of Building Inspection and Department of Law have been unable to invoke the powers of the New York Courts to protect the health, safety and welfare of its citizens due to their inability to identify and effectuate service in accordance with the New York State Criminal Procedure Law and New York State Civil Practice Law.

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to Municipal Home Rule Law the City of North Tonawanda hereby adopts the following local law to protect the health, safety and welfare of its citizens:

**City of North Tonawanda
Local Law No. 1 of the year 2008**

A LOCAL LAW RELATIVE TO Registration of Rental Housing Units.

BE IT ENACTED by the Common Council of the City of North Tonawanda, New York, as follows:

REGISTRATION OF RENTAL HOUSING UNITS

A. Purpose. The purpose of this code is to establish rules, regulations and enforcement procedures for the identification of owners as defined below of rental housing units and to provide a means to effectuate service of legal process upon such owners or authorized agents of rental housing units located in the City of North Tonawanda. This code section is intended to preserve the City’s existing housing stock and to protect the health, safety and welfare of the general public.

B. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

- (1) Whenever the words “dwelling” and “dwelling unit,” “rooming house,” “rooming unit,” “premises” and “structure” are used in this chapter, they shall be construed as though they were followed by the words “or any part hereof.”
- (2) Whenever the phrase “any provision of this chapter” is used in this chapter, it shall be construed as though it were followed by the words, “or any rule or regulation adopted pursuant thereof.
- (3) Whenever the words “Code Enforcement Officer, Director of Code Enforcement and/or Code Enforcement Inspector” are used, it shall be construed to mean or be equivalent to the “Chief Building Inspector of the City of North Tonawanda.”
- (4) Dwelling unit shall mean any building, except for temporary housing, which is used or intended to be used for living or sleeping by human occupants.

- (5) **Multiple Dwelling** shall mean any dwelling containing two or more dwelling units.
- (6) **Occupant** shall mean any person over one year of age living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit, unless otherwise provided.
- (7) **Operator** shall mean any person who has charge, care or control of a building, or a part thereof, in which units are let.
- (8) **Owner** shall mean any person who, alone or jointly or with others (i) shall have legal title (including through a land contract) to any rental unit or multiple dwelling, with or without accompanying possession thereof, or (ii) shall have charge, care or control of any rental unit or multiple dwelling as either owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any person thus representing the actual owner according to the definition provided shall be bound to comply with the provisions of this chapter to the same extent were he or she the owner.
- (9) **Person** shall mean any party, land contractee, individual, firm, corporation, limited liability company, association, partnership or any other similar entity.
- (10) **Rental Unit** shall mean any residential dwelling, dwelling unit, rooming house or rooming unit not solely occupied by the owner.
- (11) The term “**residence**” shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return. Any two of the following may be considered by the Department of Building Inspection as proof of residency: A valid New York State drivers license, New York State voter registration card, utility bills, 911 service listing; New York State income tax return, social security statement, and/or automobile registration.

C. Registration of Rental Units

Owners and lessors, or their respective agents, of rental housing units or multiple dwellings who do not reside or maintain a principal place of business within Niagara County, New York or an adjoining county of Niagara County, New York shall, within two (2) months after the effective date of this provision or within 30 days from the date of mailing forms by the Code Enforcement Officer, whichever occurs first, register with the Department of Building Inspection each rental housing unit or multiple dwelling they own or operate in the City of North Tonawanda. The following information shall be provided:

- (1) The names and addresses of the owner and/or lessor, and of their respective property manager, agents or other person responsible for the maintenance of the leased premises. The address shall not be a post office address.
- (2) The name, address and phone number(s) of a property manager or other person responsible for the maintenance of the leased premises located within Niagara County, New York or a contiguous county in the State of New York who can be reached 24 hours per day seven days a week and upon whom violation orders may be served within the County of Niagara, State of New York or a contiguous county in the State of New York.
- (3) Such other appropriate information as may be requested, including, but not limited to, number of units, number and type of rooms, number of stories, type of heating system and location of such, sprinkler system and fire alarm controls etc.

It shall be the responsibility of the property owner to maintain all information provided to the Code Enforcement Office pursuant to this section, and such owners must inform the Code Enforcement Office of any change in the information provided within 10 days of the change. Failure to maintain the information provided to the Code Enforcement Office pursuant to this section shall subject the owner to the penalties provided for in Subsection D of this section.

D. Penalty. A failure to register any rental unit or multiple dwelling required to be registered under this section shall be a violation, and any person or entity convicted of such violation shall be punished as follows:

- (1) Upon the first conviction, a fine of not less than \$250, but not exceeding \$500; and
- (2) Upon a second such conviction within a twelve-month period, a fine of not less than \$500, but not exceeding \$2,500.
- (3) Failure to register and/or pay a fine within 30 calendar days of the court order imposing the fine shall thereupon become and be a charge and lien upon the real property of the rental housing unit and shall be collected the same as other taxes upon the rental housing unit.

E. **Public Database.** The Code Enforcement Office shall maintain, for public review, a database of rental units or multiple dwellings registered pursuant to this section. That database shall list the name of the owner or lessor and the owner’s addresses. It shall also include the name, local address and phone number of the property manager, agent or person otherwise responsible for the maintenance of the building. It shall also state whether there is a currently valid certificate of registration on file for each building.

F. **Proof of Registration.** A Certificate of Registration may be issued for any rental housing unit, regardless of whether it is required to be registered by Subsection C of this section, pursuant to the request of owners, lessors or lessees. A certificate of registration shall be issued and shall remain in effect for two years or until change of ownership, whichever occurs first.

G. **Fees.** A fee as set forth from time to time by Common Council resolution for each new issuance and or renewal will be charged.

H. **Severability.** Each and every clause, sentence, paragraph and section in this Law is separately written in the event that any such provision should be decided by a court of competent jurisdiction to be unconstitutional or invalid, such a decision does not effect the validity of this Law as a whole or any part thereof other than the part declared to be unconstitutional or invalid.

This law shall take effect immediately upon filing with the Secretary of State.

Ayes: Brick, Pasiak, Donovan, Sommer (4)
 Nays: None (0)
CARRIED.

VII.1 Accountant

July 10, 2008

Honorable Lawrence V. Soos, Mayor
 and Common Council
 City Hall
 North Tonawanda, New York 14120

Dear Honorable Body:

In accordance with Article V, Division 1, Section 5.002 and 5.003 of the City Charter, an Abstract Sheet, comprised of a Warrant of Claims, has been submitted by this office for your review and approval.

Accordingly, please authorize for payment the current Warrant of Claims for Common Council audit, dated July 15, 2008, and further authorize the Mayor and City Clerk to respectively sign and countersign said Warrant.

Very truly yours,
 David R. Jakubaszek
 City Accountant

XXV. Monthly Reports**.1 Police****2. Vital Statistics****MOVED by Alderman Pasiak****SECONDED by Alderman Brick****That the Common Council hereby receives and files the aforementioned monthly reports.
CARRIED.****The following item was pulled from the agenda before the meeting:****XXXII.1 Community Development****Honorable Lawrence V. Soos
and Common Council Members
City Hall – 216 Payne Avenue
North Tonawanda, NY 14120****Re: Western Erie Canal Main Street Program
Request for Commitment of Funds****Dear Honorable Body:****The Western Erie Canal Alliance and the National Trust for Main Street have partnered to create the Western Erie Canal Main Street Program and is soliciting applications for participation. Program inclusion is anticipated to be awarded to three communities in Niagara, Wayne and Orleans Counties and the benefits of program inclusion include:****Access to programs and grants only available to officially recognized Main Street Programs
National recognition
Nationally sponsored technical assistance and training
“Umbrella” business contacts
Public relations assistance****I am requesting the Common Council authorize application to the Western New York Main Street Program and to further commit to funding up to 20% of the annual program budget for each of three years, in an amount not to exceed \$10,000 per year.****Thank you in advance for your anticipated review and cooperation.****Sincerely,
James B. Sullivan
Director of Community Development****XXXII.2 Community Development****Honorable Lawrence V. Soos
and Common Council Members
City Hall – 216 Payne Avenue
North Tonawanda, NY 14120****Re: Gratwick Riverside Park: Fishing Pier and Playground
Design and Engineering Services Consultant Selection****Dear Honorable Body:****Per the request of the Common Council, the Lumber City Development Corporation helped prepare a Request for Proposals (RFP) for design and engineering services for a new fishing pier and playground at Gratwick-Riverside Park. The purchasing, construction and installation for the projects, estimated at approximately \$250,000 has been funded through the Host Community Standing Committee for Greenway Funds.**

C.
Vincent R. Ginestre

June 20, 2008

Lawrence V. Soos, Mayor
North Tonawanda Common Council
City of North Tonawanda
216 Payne Avenue
North Tonawanda, NY 14120

Dear Mayor Soos and Members of the Common Council:

Please be advised that I represent G. T. Custom Built Homes, Inc. As the adjacent landowner, my client would request that the paper street, known as Tompkins Street (unimproved), be abandoned and the property be granted to the adjacent landowner.

As you are aware, my client is in the process of seeking approval of a subdivision. The developers, engineer and City Engineer have discussed this potential abandonment and determined that the paper street known as Tompkins Street would be an appropriate place for a potential water retention pond should one be needed.

Kindly consider this request and advise at your earliest possible convenience.

Very truly yours,
Vincent R. Ginestre

MOVED by Alderman Sommer SECONDED by Alderman Brick
That the Common Council hereby tables the aforementioned request and refers the request to the City Assessor.
CARRIED.

LATE COMMUNICATION

MOVED by Alderman Sommer SECONDED by Alderman Donovan
To bring the following communication to the floor.
Ayes: Brick, Pasiak, Donovan, Sommer (4)
Nays: None (0)
CARRIED.

#1.
Attorney

MOVED by Alderman Sommer SECONDED by Alderman Donovan
BE IT RESOLVED, that in the best interests of the taxpayers and upon the recommendation of duly-elected City Attorney Shawn P. Nickerson, the North Tonawanda Common Council authorizes the following settlement proposal to resolve the lawsuit pending between the North Tonawanda Board of Education and the City of North Tonawanda:

1. The City of North Tonawanda shall pay the School District for amounts owed in uncollected interest for 2006/2007 school tax collection. This is in the amount of \$17,826.68.
2. The School District shall pay the City of North Tonawanda postage costs only for 2003/2004; 2004/2005 and 2005/2006 school tax collection. This is in the amount of \$12,084.42

3. The City of North Tonawanda shall execute a new agreement to collect taxes for the District for the next three years. As part of the agreement the District shall pay for postage costs only.

Ayes: Brick, Pasiak, Donovan, Sommer

(4)

Nays: None

(0)

CARRIED.

AUDIENCE PARTICIPATION - None

ADJOURNMENT

MOVED by Alderman Sommer

SECONDED by Alderman Brick

That this regular session of the Common Council be and hereby is adjourned.

CARRIED.

Time of Adjournment: 5:10P.M.

Respectfully submitted,

Thomas M. Jaccarino
City Clerk