

**VILLAGE OF WASHINGTONVILLE**

**INTRODUCTORY LOCAL LAW NO. \_\_\_\_ OF 2021**

**A LOCAL LAW REGULATING RENTAL PROPERTIES IN THE VILLAGE OF WASHINGTONVILLE**

Be it enacted by the Board of Trustees of the Village of Washingtonville, County of Orange, State of New York as follows:

**Section 1. Title.**

This Local Law shall be referred to as **“A LOCAL LAW REGULATING RENTAL PROPERTIES IN THE VILLAGE OF WASHINGTONVILLE”**.

**Section 2. Legislative Intent.**

The Board of Trustees of the Village of Washingtonville hereby finds and declares that the rental of dwelling units constitutes a business which impacts upon the public health, safety and general welfare of the people of the Village of Washingtonville. The intent of this Chapter is to regulate the offering for rental of dwelling units to protect the public health, safety and general welfare of the people of the Village of Washingtonville and to further achieve the following beneficial purposes:

- A. The protection of the character and stability of residential areas;
- B. The correction and prevention of housing conditions 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 occupying dwellings by way of creating a permitting and inspection procedure for all rental dwelling units;
- C. The enforcement of minimum standards for the maintenance of existing residential buildings and the prevention of slum and blight conditions;
- D. The preservation of the value of land and buildings throughout the Village.

**Section 3. Definitions.**

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

**CHANGE IN OCCUPANCY**— Whenever a tenant moves from or vacates, willingly or otherwise, or expresses the firm intent to vacate a dwelling unit in a single-family dwelling or in an owner-occupied two-family dwelling.

**CODE ENFORCEMENT OFFICIAL** – The Building Inspector, or Code Enforcement Officer, or Fire Code Inspector of the Village of Washingtonville, or their delegates or assistants as may be appointed by the Board of Trustees of the Village of Washingtonville.

**DWELLING UNIT** – One or more rooms connected together, constituting a separate, independent housekeeping unit for one (1) individual person or one (1) family containing independent sanitary, cooking and sleeping facilities, physically separated from any other dwellings that may be in the same building, and having either separate access, or an access shared in common, to the outside.

**FAMILY** - Any number of individuals related by blood, marriage or adoption, living together as a single housekeeping unit, using rooms and housekeeping facilities in common. Two (2) or more

individuals not so related shall not be considered as a family unless they can sufficiently demonstrate to the administrative officer charged with enforcement of this code that they: (i) Share the entire dwelling unit; (ii) Live and cook together as a single housekeeping unit; and (iii) Shares expenses for food, rent, utilities or other household expenses.

**OWNER** – The individual, partnership or corporation that holds fee simple title and right of possession of a dwelling unit, or the underlying land thereto. Owner may also be referred to as the permit holder.

**RENT** – A return, in money, property or other valuable consideration (including payment in kind or for services or other thing of value) for use and occupancy or the right to 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.

**RENTAL OCCUPANCY** – The occupancy or use of a dwelling unit by one (1) or more persons as a home or residence regardless of the length of stay under an arrangement, which may be oral, written or otherwise, whereby the occupant or occupants thereof pay rent for such occupancy and use.

**RENTAL OCCUPANCY PERMIT** - A permit issued for the rental occupancy of a dwelling unit which is issued in conformance with the requirements of this Chapter.

**SHORT-TERM RENTAL** – A dwelling unit that is rented, in whole or in part, to any person or entity for a period of 29 or less consecutive nights.

#### **Section 4.     **Applicability; more restrictive provisions to prevail.****

A. Scope. This Chapter shall apply to all rental dwelling units located within the Village, whether or not the use and occupancy thereof shall be lawfully permitted, or legally established under the applicable use regulations for the zoning district in which such rental dwelling unit is located, as set forth in Chapter 315, Zoning.

B. Applicability. The provisions of this Chapter shall be deemed to supplement applicable state and local laws, ordinances, codes or regulations, and nothing in this Chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the village, county or state, or existing requirements of any other applicable state or local laws, ordinances, codes or regulations. In case of conflict between any provision of this Chapter and any applicable state or local laws, ordinances, codes or regulations, the more restrictive or stringent provision or requirement shall prevail.

#### **Section 5.     **Application for Permit.****

A. It shall be unlawful for any owner to permit the occupancy of any residential rental unit unless such unit has a current and valid rental occupancy permit.

B. Application for a rental occupancy permit for a rental dwelling unit shall be made in writing to the Building Department on a form provided by the Building Department for that purpose.

C. Such application shall be filed in duplicate and shall contain:

(1) The name, address and telephone number, if any, of the owner of the dwelling unit intended for rental occupancy.

(2) The street address and tax map description (section, block and lot or lots) of the premises intended for rental occupancy or the premises in which the rental dwelling units intended for occupancy are located.

(3) A floor plan showing the number of rooms in the structure and in each proposed dwelling unit therein, the dimensions of each room, means of ingress and egress and a description of the present use or uses thereof, if any.

(4) A description of each dwelling unit intended to be established, used or occupied for rental occupancy in the premises, including the number of dwelling units, and the number of persons intended to be accommodated by and reside in each such dwelling unit.

(5) The name, address and telephone number, if any, of the managing agent or operator of each such intended rental dwelling unit.

(6) The name and address of the insurance company, if any, providing the fire and other hazard and public liability insurance for the owner of the premises, with a description of the type of insurance provided, policy limits for each coverage and the policy number and expiration date of such policy.

C. Such application shall be signed by the owner of the premises, and the statements of such owners therein contained shall be verified under oath.

D. Such application shall be accompanied by the following:

(1) A property survey of the premises drawn to a scale not greater than forty (40) feet to one (1) inch.

(2) If not shown on the survey, a site plan, drawn to scale, showing all buildings, structures, walks, drives and other physical features of the premises and the number, location and access of existing and proposed on-site and/or on-street vehicle parking facilities.

(3) A building permit application, properly prepared, for all proposed buildings, improvements and alterations to existing buildings on the premises, if any.

(4) A copy of the certificate of occupancy or certificate of existing use, if any.

(5) a copy of the proposed Lease Agreement and/or occupancy rules and regulations.

E. In the case of a condominium unit, the application shall be accompanied by a scale drawing or floor plan of the condominium unit, in lieu of a survey or site plan.

F. Notwithstanding the above, no rental occupancy permit shall be required for a residential care facility established under New York State guidelines only with respect to housing of

persons requiring such care, and excluding any housing provided for employees of such facility or other individuals.

- G. No permit shall be issued prior to a satisfactory inspection by the Code Enforcement Official.
- H. Permits issued in accordance with this Local Law may not be transferred or assigned to any person or used by anyone other than the person or entity to whom it was issued.
- I. Application for a rental occupancy permit for a dwelling unit subject to the provisions of this article must be made:
  - (1) If such a dwelling unit does not have a current, valid rental occupancy permit; or
  - (2) If there is a vacancy in such a dwelling unit and a leasing is about to occur; or
  - (3) If there is a change in occupancy as defined in this article.

#### **Section 6. Fees.**

- A. Permit Application Fee. A non-refundable permit application fee shall be paid, upon filing an application for a rental occupancy permit, shall be established by resolution of the Board of Trustees, and shall be set forth in the Schedule of Fees.
- B. Permit Renewal Fee. A non-refundable permit renewal fee, equal in amount to the initial application fee, shall be paid upon filing an application for renewal.

#### **Section 7. Review of Application.**

- A. The Code Enforcement Official shall review each application for completeness and accuracy and shall make an on-site inspection of the proposed rental dwelling unit or units. If satisfied that the proposed rental dwelling unit or units, as well as the premises in which same are located, comply fully with all applicable laws of the state and local laws, ordinances, rules and regulations of the county and Village, and that such rental dwelling unit or units would not create an unsafe or dangerous condition, or create an unsafe or substandard structure as defined in the Village Code or create a nuisance to adjoining or nearby property, the Code Enforcement Official shall issue the permit or permits applied for.
- B. Revocation of permit.
  - (1) It is the responsibility of the property Owner to comply with all terms and provisions of this Chapter and to ensure that his or her rental tenants, guests, and invitees comply with this Chapter and the terms and condition of the rental occupancy permit. Any failure of rental tenants, guests and invitees to comply with this Chapter and the terms and conditions of the rental occupancy permit shall be attributed to the failure of the property Owner to discharge his or her responsibility to ensure such compliance.
  - (2) The Code Enforcement Official may revoke a permit issued under this Chapter when:
    - a. The permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit was issued for a period of 10 days or more

after written notice has been given to the permit holder or the managing agent of such rental unit a violation of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the law, codes and/or ordinances of the Village of Washingtonville; or

- b. The subject premises contains a violation or violations of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the laws, codes and/or ordinances of the Village of Washingtonville, which violation(s) are determined by the Code Enforcement Official, in his discretion, to be a danger to the health or safety of residents of the subject premises or neighboring; or
  - c. The subject premises has incurred repeated violations of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the laws, codes and/or ordinances of the Village of Washingtonville, during the life of the subject permit, which violations are determined by the Code Enforcement Official, in his discretion, to constitute an adverse impact upon the quality of life, the enjoyment or value of property and the welfare of the surrounding neighborhood.
- C. Reapplication. A permit holder whose permit has been revoked pursuant to the provision of this section may not reapply for a permit for the premises which was the subject of the revocation until two years after the date of revocation, unless the Code Enforcement Official, in his or her sole discretion, allows an earlier reapplication. In all other respects, reapplications shall be considered pursuant to the provisions of this article governing application.
- D. Hearings. If a decision is made not to renew a rental occupancy permit application, or if a decision is made to revoke a permit, the permit holder shall be notified of the reason(s) therefor by written notice from the Code Enforcement Official mailed to the permit holder by regular and by certified mail, return receipt requested. A permit holder has 10 working days from the date of such written notice to request a hearing before the Village Board of Trustees as hereinafter provided. All requests for hearings must be in writing, directed to the Village Clerk and Building Department, and accompanied by a fee of \$100. If the permit holder requests such a hearing, the permit holder shall be issued a temporary permit by the Code Enforcement Official which shall expire 60 days after the final decision of the Village Board of Trustees. No temporary permits may be issued in the event of a revocation of a rental occupancy permit.
- (1) The Mayor shall act as presiding officer at the hearing.
  - (2) The hearing shall be conducted within 45 days after receipt of the request therefor.
  - (3) The hearing shall be public, and the permit holder may be represented by counsel and shall be able to call witnesses on his or her behalf.
  - (4) The Village Board of Trustees, in its discretion, may rescind or uphold a revocation for good cause shown.
  - (5) The Village Board of Trustees shall issue a written decision within 20 days after the hearing, and the Village Clerk shall provide the permit holder with a copy of this decision within five business days after its issuance.

- (6) In the event the permit holder is not satisfied with the decision of the Village Board of Trustees, such permit holder may file an Article 78 proceeding pursuant to the New York Civil Practice Law and Rules.

**Section 8. Term of Permit; Renewal.**

All permits issued pursuant to this Chapter shall be valid for a period of two (2) years from the date of issuance. The renewal applications shall contain substantially the same information required by § 5 of this Chapter upon forms to be furnished by the Building Department, and shall be subject to the payment of the renewal fees specified in § 6 hereof.

**Section 9. Register of Permits.**

It shall be the duty of the Code Enforcement Official to maintain a register of permits issued pursuant to this Chapter. Such register shall be kept by street address, showing the name and address of the permittee, the number of rental dwelling units at such street address, the number of rooms in each such rental dwelling unit and the date of expiration of permit for such unit.

**Section 10. Additional Criteria for Granting of Permits.**

- A. Smoke Detectors. No permit shall be issued or renewed until the Code Enforcement Official shall inspect the rental dwelling unit to determine that it is equipped with a functioning smoke detector device, in accordance with the New York State Uniform Fire Prevention and Building Code.
- B. On-Site Parking. The premises shall provide on-site parking spaces for the structure in which the rental dwelling units are to be located, which shall be designed, constructed and in accordance with the regulations set forth in the Village Code.
- C. No rental dwelling unit shall consist of one (1) room only, and no rental occupancy permit shall be issued for a rental dwelling unit consisting of one (1) room only, unless such room shall provide a minimum clear floor area of one hundred (100) square feet.
- D. Each rental dwelling unit shall contain at least one bathroom area containing a shower, toilet and sink, and shall provide independent kitchen facilities.

**Section 11. Inspections.**

The Code Enforcement Official is authorized to make, or cause to be made, inspections, from time to time, to determine the condition of rental dwelling units and to safeguard the health, safety, morals and welfare of the public. The Code Enforcement Official is authorized to enter, upon consent of the owner or occupant, any rental dwelling unit and the premises in which same is located, at any reasonable time during daylight hours, or at such other times as may be necessary in an emergency without consent of the owner or occupant for the purpose of performing

his duties under this Chapter. It shall be a condition of each rental occupancy permit, expressly stated therein, that the Code Enforcement Official shall have the right to inspect each permitted rental dwelling unit during the term of the permit, in accordance herewith, for the purpose of performing his duties under this Chapter.

**Section 12. Application for Search Warrant Authorized.**

The Code Enforcement Official is authorized to make application to the Justice Court of the Village of Washingtonville or any 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 covered by this Chapter where the owner or occupant refuses or fails, after due notice by certified mail, to allow an inspection of the rental dwelling unit or premises, and where there is reasonable cause to believe that a violation of this Chapter or a violation of the New York State Multiple Residence Law, Uniform Fire Prevention and/or Building Code or a violation of this Chapter or other Chapters of the Village Code has occurred. The application for a search warrant shall, in all respects, comply with the applicable laws of the State of New York.

**Section 13. Duty to Maintain.**

It shall be a condition of each permit issued pursuant to this Chapter, that the permit holder shall continuously maintain the rental unit in compliance with all applicable codes, laws, rules and regulations.

**Section 14. Short-Term Rentals.**

- A. It shall be unlawful for any person in any residentially zoned district within the Village to rent or license, or offer to rent or license, any living accommodations for rent, monetary compensation or other valuable consideration for a period of 29 consecutive nights if the living accommodations are not lawfully licensed or permitted for such use under the Village Code. All short-term rentals shall be subject to the permitting process provided for in this Chapter.
- B. Only owner-occupied property may be used for short-term rentals.
- C. Only single-family dwellings may be used as short-term rental property. Short-term rental of two- or three-family dwellings or multiple dwellings is not permitted.
- D. No occupant, visitor, or other may use, reside, dwell, or otherwise remain in any living accommodations for a period of less than 29 consecutive nights in exchange for monetary compensation or other valuable consideration.
- E. Any provision of a lease or rental agreement purporting to waive any provision of this section is unlawful.
- F. Occupancy rules and regulations shall be provided in writing to each renter and posted at all times when the short-term rental is rented in a conspicuous location at

the short-term rental in plain view of the renters, and shall list the penalties for violation of such rules or regulations. The rules and regulations shall be enforced by the Owner and shall include a requirement that renters shall maintain quiet at the short-term rental between the hours of 10:00 p.m. and 7:00 a.m., Monday through Sunday.

- G. Nothing in this section shall be construed as invalidating or impairing the operation of or the right of a landlord to restrict occupancy in order to comply with federal, state or local laws, regulations, ordinances, or codes.
- H. A person or entity (including a principal of any entity) who rents property from a premises owner or lawful lessee who is in violation of this section shall be deemed to be an accessory to the offense provided herein.
- I. Any person who shall violate any provision of this section shall first receive a warning of said violation from the Building Inspector. Each violation issued thereafter shall be subject to the penalties set forth in § 15 herein.
- J. In addition to the criminal penalties contained herein, it shall be the right of the Village to seek injunctive relief in any civil court having jurisdiction over this matter to prevent any violation or violations of this section.
- K. The following terms and conditions shall apply to all short-term rentals:
  - a. No more than three (3) adult persons can occupy any one bedroom, provided, however, that maximum occupancy under the New York State Building and Fire Safety Code cannot be exceeded.
  - b. No illegal conduct shall be conducted on any short-term rental property by the property owner and/or any of the short-term rental tenants, guests and/or invitees.
  - c. The short-term rental tenants and their guests or invitees shall not engage in any conduct which violates any Village law, code or ordinance or which would otherwise constitute disorderly conduct or creation of a public nuisance.
- L. Applicability.
  - a. The prohibition on short-term rentals shall apply to all single family, two-family, and multiple-family residential dwellings within the Village.
  - b. The prohibition on short-term rentals shall not apply to a commercial hotel/motel business or bed-and-breakfast establishment operating exclusively as such and which is lawfully licensed or permitted for such use pursuant to the Village Code

and regulated by applicable state, county and local law or ordinance.

- c. The prohibition on short-term rentals shall not preclude the creation of a mortgage, lien, easement or other similar interest that encumbers a residential property as a whole to secure a loan or for any other legitimate purpose.

**Section 14. Unlawful Acts.**

A. It shall be unlawful and a violation of this Chapter for any person to:

(1) Permit any tenant or other person to take up residence by a rental occupancy in any dwelling unit without the owner's first having completed and filed with the Building Department a rental registration form, and a permit thereto has been issued by the Building Department in accordance with this Chapter.

(2) List, solicit, advertise or offer, exhibit or show to any person, a rental dwelling unit located within the Village of Washingtonville, for the purpose of bringing about the rental thereof, where no currently effective permit has been issued with respect to such rental dwelling unit by the Code Enforcement Official of the Village, as herein provided.

(3) Accept a deposit of rent or security, or a commission, in connection with the rental of a rental dwelling unit located within the Village of Washingtonville where no currently effective permit has been issued with respect to such rental dwelling unit by the Code Enforcement Official of the Village, as herein provided.

(4) Fail to comply with any provisions of this Chapter.

B. In the event that a person convicted of a violation of Subsection (A) of this section shall have been a real estate broker or sales person licensed by the State of New York at the time such violation was committed, it shall be the duty of the Village Clerk to transmit a record of such conviction to the Division of Licensing Services of the Department of State and to make complaint thereto against such licensee on behalf of the Village, pursuant to the provisions of Article 12-a of the Real Property Law.

**Section 15. Penalties for Offenses.**

- A. Any person or corporation, whether as owner, lessee, principal, agent, employee or otherwise, which violates any of the provisions of this Chapter or permits any such violation or fails to comply with any of the requirements

of this Chapter shall be guilty of a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a period not to exceed six months, or both for a conviction of a first offense; for a conviction of a second offense, a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense, a fine of not less than \$1,000.00 nor more than \$1,500.00 or imprisonment for a period not to exceed six (6) months. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Chapter or any part thereof or any condition or requirement of subdivision approval shall be deemed misdemeanors. Each week's continued violation shall constitute a separate additional violation.

- B. Complaints of violations. Whenever a violation of this Chapter occurs, any person may file a complaint in regard thereto. All such complaints filed by an individual must be in writing and filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Village Board. This Section shall not relieve the Building Department from investigating or acting upon any violation of which they personally observe or become aware of in the course of performance of their duties.
- C. Accountability. For every violation of the provisions of this Chapter, the owner, agent, contractor, lessee, ground lessee, tenant, licensee, or any other person who commits, takes part, or assists in such violation or who maintains any structures or premises in which any such violation exists shall also be punishable according to the provisions of this Chapter.
- D. In addition to the above-provided penalties and punishment, the Village Board may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Chapter.

**Section 16. Administration.**

This Chapter shall be enforced by the Code Enforcement Official as defined by this Chapter or his or her designee.

**Section 17. Severability.**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Board of Trustees of the Village of Washingtonville hereby declares that it would have passed

this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**Section 18.**    **Repeal.**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

**Section 19.**    **Effective Date.**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.