

A LOCAL LAW to amend the *Lake Success Code* by the addition of a new Chapter 83, entitled "Registry of Leases for Rental Dwellings."

Section One. The *Lake Success Code* is hereby amended by the addition of a new Chapter 83 entitled "Registry of Leases for Rental Dwellings" to read as follows:

§ 83-1. Legislative intent.

The Board of Trustees has determined that the rental of residential dwellings in the Village of Lake Success is a health and safety concern for Village residents. The rental of dwellings to transient persons can overburden municipal services and promote or encourage deterioration of the housing stock of the Village. The Board finds that the new Code provisions will serve to halt the proliferation of such conditions and that the public health, safety, welfare and good order and governance of the Village will be enhanced by enactment of regulations set forth in this article. The new Code provisions will also assist in protecting the character and stability of residential areas and preserving the value of land and buildings throughout the Village.

§ 83-2. Definitions.

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

CODE ENFORCEMENT OFFICER

The Building Inspector or the Commissioner of Buildings of the Village of Lake Success or their delegates or assistants.

DWELLING

A building or structure designed for and occupied exclusively as a home or residence for not more than one family.

FAMILY

A family shall constitute either:

- (1) One or more persons related by blood, adoption or marriage living and cooking together as a single housekeeping unit, exclusive of household servants or (2) a number of persons, but not exceeding two and their children, living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage, shall be deemed to constitute a "family." For the purpose of this definition, foster children under the care of persons occupying or owning a dwelling will be considered to be "related by blood."

OWNER

- A. Owner is the person who holds title to the dwelling or any other person or persons or entity or entities having the right to possession of a dwelling.

RENT

A return, in money, property or other 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, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL DWELLING

A dwelling established, occupied, used or maintained for rental occupancy.

RENTAL OCCUPANCY

The occupancy or use of a dwelling by a person or persons other than the owner as defined herein as a home or residence under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use.

Consistent with the Village's zoning regulations, no more than one family may rent a dwelling at any given time and a dwelling may not be divided into separate housekeeping units to rent to more than one family.

A rental occupancy is permitted only if the term of the rental occupancy is a minimum of one (1) year.

There is a rebuttable presumption that any occupancy or use of a dwelling is a "rental occupancy" if the owner of the building containing the dwelling does not reside in the same building.

TRANSIENT RENTAL OCCUPANCY

The occupancy or use of a dwelling by a person or person 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 for a period of less than one year.

A transient rental occupancy is not permitted.

A tenant in possession is prohibited from subleasing or otherwise licensing the use or occupancy of any portion thereof.

Advertising for the subleasing of, or selling or assigning of shares to, the dwelling by a tenant, or occupant, for the use or occupancy of all or a portion of the dwelling is prohibited.

There is a rebuttable presumption that any occupancy or use of a dwelling as a transient rental occupancy if the dwelling is offered for lease on a short-term rental website including AirBNB, Home Away, VRBO, and the like for a period of less than one year; the dwelling

is offered for lease in any medium for a period of less than one year. This foregoing presumption may be rebutted by evidence presented to the Code Enforcement Officer that the dwelling is not a transient rental occupancy.

VILLAGE FACILITIES

All Village Facilities used by Village residents including, but not limited to, the Village pool, golf course, fitness center and catering facility. If a dwelling is rented, only the occupant may use Village Facilities pursuant to the regulations set forth in Code §116..

§ 83-3. Applicability; more restrictive provisions to prevail.

- A. Scope. This chapter shall apply to all rental dwellings located within the Village, whether or not the use and occupancy thereof shall be permitted as provided in this chapter.
- B. Applicability. The provisions of this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes and 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 law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail. The issuance of any permit or the filing of any form under this chapter does not make legal any action or statement of facts that is otherwise illegal under any other applicable legislation.

§ 83-4. Rental Registration

- A. Rental Registration Required. Any owner who wants to rent a dwelling must first file a Rental Registration form with the Building Department on a form provided by the Building Department for that purpose. Only one Rental Registration per dwelling is permitted within a twelve-month period.
- B. Content of Rental Registration. Such form shall be filed in duplicate and shall contain:
 - (1) The name, address and telephone number, if any, of the owner of the dwelling intended for rental occupancy.
 - (2) The street address of the dwelling intended for rental occupancy
 - (3) The number of persons under and over the age of 18 and the dates of birth of each person presently residing in or occupying such dwelling intended for rental occupancy.
 - (4) The name, address and telephone number, if any, of the managing agent or operator of each such intended rental dwelling.

(5) Such form shall be signed by the owner of the dwelling, and the statements of such owner therein contained shall be verified under oath.

C. Copy of Lease and Owner Affidavit Required. The rental registration application shall be accompanied by the following:

- (1) A copy of the lease or other rental occupancy agreement for the rental dwelling.
- (2) An affidavit, acknowledged by a notary public, from the owner confirming that:
 - a. the owner will not use Village Facilities while the dwelling is rented;
 - b. the rental registration and lease provided to the Village are true and accurate;
and
 - c. that there are no other rental agreements in place for the dwelling.

D. Notice to Advertise a Dwelling Required. Any owner who wants to rent a dwelling must first file a notice on a form provided by the Building Department for that purpose. This will serve to put the Village on notice that the owner is searching for a tenant and that the tenancy complies with the regulations set forth in this Chapter.

§ 83-5. Registry of leases.

It shall be the duty of the Code Enforcement Officer to maintain a registry of leases and rental agreements of all rental dwellings in the Village. Such registry shall be kept by street address, showing the name and address of the owner and tenant, the lease term and the expiration of the lease term.

§ 83-6. Entire Structure to be Rented

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any owner to permit any tenant or other person to take up residence by a rental occupancy in anything less than an entire structure or building.

§ 83-7. Restrictions on Rental

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any owner to permit any tenant or other person to take up residence by a rental occupancy for a term of less than one year or to enter into or allow a transient rental occupancy.

§ 83-8. Rental registration required.

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any owner to permit any tenant or other person to take up residence by a rental occupancy in any dwelling without the owner's first having completed and

filed with the Code Enforcement Officer a rental registration form provided by the Commissioner of Buildings. A new form must be filed on an annual basis. The annual filing is required even if the same tenants occupy the dwelling under the same rental agreements.

§ 83-9. Filing of rental agreement—identification of tenants

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any owner to permit any tenant or other person to take up residence by a rental occupancy without the owner first having filed with the Code Enforcement Officer a copy of the rental agreement and a form identifying the tenants provided by the Commissioner of Buildings. A rental agreement and new tenant identification form must be filed whenever a dwelling becomes vacant and the owner intends to permit a new tenant or other person to take up residence.

§ 83-10. Confidentiality of rental registration, rental agreement and tenant identification form.

Under Public Officers Law § 872(b), rental registration forms, rental agreements, tenant identification forms and that portion of the rental occupancy permit application required under § 83-4 shall be exempt from disclosure under the Freedom of Information Law, on the grounds that such disclosure would constitute an unwarranted invasion of personal privacy. The Code Enforcement Officer will institute strict policies to ensure that such information is available only to Village personnel who are engaged in the enforcement of the provisions of this chapter.

§ 83-11. Collection of rent.

The following shall be conditions precedent to renting any dwelling within the Village:

- A. The filing of a valid Rental Registration form for the tenancy as required by § 83-4(A) and (B).
- B. The filing of a copy of the lease rental agreement as required by § 83-4(C).
- C. The filing of an Owner's Affidavit as required by § 83-4(C).
- D. The filing of photo ID for all occupants who will be living in the rental dwelling.

§ 83-12. Presumptions applicable to rental registration enforcement and prosecutions.

- A. Within the context of rental registration enforcement and prosecutions, the presence or existence of any of the following shall create a rebuttable presumption that a dwelling is being used as a rental occupancy or an illegal multiple occupancy rental:
 - (1) The dwelling is occupied by someone other than the owner, or the owner of the property represents in writing or otherwise, to any person or establishment,

business, institution or government agency, that he resides at an address other than the rental property;

- (2) Utilities, cable, phone or other services are in place or requested to be installed or used at the dwelling in the name of someone other than the record owner;
- (3) There are separate entrances for segregated parts of the dwelling;
- (4) There are partitions or internal doors which may serve to bar access between segregated portions of the dwelling, including but not limited to bedrooms;
- (5) There exists a separate written or oral lease or rental arrangement, payment or agreement for portions of the dwelling among its owner(s) and/or occupants and/or persons in possession thereof;
- (6) Any occupant or person in possession thereof does not have unimpeded and/or lawful access to all parts of the dwelling unit;
- (7) Two or more kitchens each containing one or more of the following: a range, oven, hot plate, microwave or other similar device customarily used for cooking or preparation of food and/or a refrigerator;
- (8) A dwelling has been advertised in any newspaper, magazine, local advertising publication, or posted or billed as being available for rent;
- (9) There are motor vehicles parked at the dwelling registered to a person or entity who is not the owner;
- (10) There is more than one mailbox at the dwelling;
- (11) There is more than one gas meter at the dwelling;
- (12) There is more than one electric meter at the dwelling;
- (13) There is more than one doorbell at the dwelling;
- (14) There are three or more motor vehicles registered to the dwelling and each vehicle owner has a different surname;
- (15) There are more than three waste receptacles, cans, containers, bags, or boxes containing waste from the dwelling placed for pickup at least twice during a weekly garbage pickup period; or
- (16) There is no electric meter annexed to the exterior of the dwelling.

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

§ 83-13. Penalties for offenses.

- A. Any person, association, firm or corporation which violates any provision of this chapter or assists in the violation of any provision of this chapter shall be guilty of a violation, punishable:
 - (1) By a fine of not less than \$1,000 and not exceeding \$5,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense.
 - (2) By a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second offense.
 - (3) By a fine of not less than \$10,000 nor more than \$20,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the third or subsequent offense of a series of offenses, all of which were committed within a period of five years.
- B. Each week's continued violation shall constitute a separate additional violation.

§ 83-14. 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.

§ 83-15. Implementation.

- A. This chapter shall be effective upon filing with the Secretary of State.

Section Two. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the courts order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

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