

LOCAL LAW NO. 4 OF 2024
VILLAGE OF CHESTER

A LOCAL LAW TO AMEND CHAPTER 98 (THE PROHIBITION ON SHORT TERM RENTALS OF RESIDENTIAL DWELLINGS) AND TO ENACT A NEW CHAPTER 72 (PROPERTY RENTAL REGISTRATION) IN THE VILLAGE CODE

Section 1. Legislative Intent.

It is the intent of this local law to amend the Village Code at Chapter 98 of the Village Code entitled “Prohibition on Short Term Rentals of Residential Dwellings” and to enact a new Chapter 72 regarding Property Rental Registration.

Section 2. Amendment to Chapter 98 Prohibiting Short-Term Rentals

§98-15.1 Prohibition on Short Term Rentals of Residential Dwellings

A. Purpose.

It is the purpose of this zoning amendment to advance the public health, safety, and welfare of the Village of Chester, its residents, and visitors. The purpose of this Local Law is to prevent unregulated tourist or transient-oriented uses within all permitted and pre-existing nonconforming single-family, two-family, and multi-family dwellings in all zoning districts in the Village to protect and ensure the health, safety and welfare of the Village’s residents and visitors to the Village as well as protect and preserve the Village’s appropriately balanced commercial and residential nature and unique, tranquil neighborhood character as enacted by the Village’s zoning, subdivision, property maintenance and related local laws.

B. Definitions. As used in this article, the following terms shall have the following meanings indicated:

APARTMENT

That part of a multiple dwelling consisting of one (1) or more rooms containing at least one (1) bathroom and arranged to be occupied by the members of a family, which room or rooms are separated and set apart from all other rooms within a multiple dwelling.

IMMEDIATE FAMILY MEMBER

Any parent, grandparent, child, grandchild, sibling, spouse, domestic, and any other immediate relative by blood, marriage, or adoption (i.e., cousin, niece, nephew, aunt, uncle, in-law, and step-child).

LIVING ACCOMMODATION

A dwelling or premise or portion thereof with a bed or beds and bathroom facilities for the use of the person or persons occupying the dwelling premises, or portions thereof.

MONETARY COMPENSATION

Cash, check, money order, credit card, bitcoin, barter, or other valuable consideration.

MULTIPLE DWELLING

A dwelling which is either rented, leased, let or hired out, to be occupied or is occupied as the permanent residence or home of three or more families living independently of each other and is occupied for permanent residence purposes. “Multiple dwelling” shall include “apartment” dwellings.

OCCUPANT

A person, other than the premises owner of record filed in the Orange County Clerk's Office or an immediate family member of the premises owner, occupying living accommodations with the premises owner's express or implied consent.

OFFER TO RENT

To personally or through an agent, referral service, representative or other entity or person, communicate or advertise, verbally, in writing, or through electronic means or otherwise, including the Internet, the availability for rental or similar use of any living accommodations, or to knowingly allow, commission, authorize, or permit such communication or advertisement.

PERSON

Any individual, partnership, corporation, joint limited liability company, limited liability company, trust or other entity, stock association, and includes any trustee, receiver, assignee, or personal representative thereof, including but not limited to any booking or reservation service, lawful lessees, and premises owners.

PREMISES

Immovable property owned or leased by the premises owner or lawful lessee, as applicable.

PREMISES OWNER

A person having lawful ownership title or interest to the premises or an immediate family member of said person.

SHORT-TERM RENTAL

A dwelling unit that is rented, in whole or in part, to any person or entity for a period of less than twenty-nine (29) consecutive nights. "Rental" means an agreement, written or oral, granting use or possession of a residence, in whole or in part, to a person in exchange for monetary compensation. "Short-term rental" shall also mean the selling of shares, time-share ownership or the establishing of other ownership, tenancy or use arrangement in which a person obtains a right of occupancy in all or any portion of a residential dwelling unit.

TRANSIENT

A rental period of twenty-nine (29) nights or less.

C. Short-term rentals prohibited.

1. It shall be unlawful for any person within the Village to rent or license, or offer to rent or license, any living accommodations for monetary compensation or other valuable consideration for a period of less than twenty-nine (29) consecutive nights if the living accommodations are not lawfully licensed or permitted for such use under the Village Zoning Code.
2. No occupant, visitor, or other may use, reside, dwell, or otherwise remain in any living accommodations for a period of less than twenty-nine (29) consecutive nights in exchange for monetary compensation or other valuable consideration.
3. Any provision of a lease or rental agreement purporting to waive any provision of this section is unlawful.
4. 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.

5. 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.
6. 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 Section 98-34, titled "Penalties for offenses."
7. 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.

D. Applicability.

1. The prohibition on short-term rentals shall apply to all single-family, two-family, and multiple-family residential dwellings within the Village.
2. The prohibition on short-term rentals shall not apply to a commercial hotel/motel business or bed-and-breakfast establishment, nursing home, assisted living facility or other licensed residential health care facilities operating exclusively as such and which is lawfully licensed or permitted for such use pursuant to the Village Zoning Code and regulated by applicable state, county and local law or ordinance.
3. 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 3. Enactment of Chapter 72 (Property Rental Registration)

Article I Registration, Inspection and Maintenance of Residential Rental Properties

§ 72-1 Legislative intent.

- A. Residential properties are significant assets and represent a critical investment in the Village of Chester because of their impact on community character, property values and overall quality of life. To maintain the quality of Village neighborhoods and facilitate effective code enforcement, the Village must be able to efficiently communicate with property owners regarding maintenance and property conditions.
- B. In instances when residential properties are rented to others, rather than owner-occupied, the Village 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 Village Code and/or the laws of the State of New York. The Village Board has also determined that an inability to make timely contact with the owners of such residential rental properties may result in extended physical deterioration of housing stock and/or substandard living conditions for Village residents. The Village Board finds that establishing registration and voluntary inspection requirements for rental properties is in the best interest of public health, safety, and welfare and that the good order and governance of the Village will be promoted and enhanced by the enactment of registration and inspection requirements for such rental properties and their owners through the adoption of the provisions set forth in this article.

§ 72-2 Definitions.

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

CODE ENFORCEMENT OFFICER

- A.** The Code Enforcement Officer shall be the Village's Code Enforcement Officer as described at Article 1 of Chapter 38 of the Code of the Village of Chester, as the same may, from time to time, be amended. Such officer shall have additional duties of registration and inspection, and issuance of certificates of inspection and maintenance compliance pursuant to this article and is hereby authorized and directed to enforce the provisions of this article.
- B.** The Code Enforcement Officer shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this article, but shall not have the effect of waiving requirements specifically provided for in this article.

DEPARTMENT

Village Building and Code Enforcement.

DWELLING UNIT

A structure or building, or any part thereof, equipped with bathing room(s), and areas or rooms for cooking, dining, living and sleeping, occupied or to be occupied by one or more persons as a home or residence.

OWNER

The person, persons, or entity that has fee simple title or comparable rights to 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-, two-, or multifamily home, equipped with bathing room(s), and areas or rooms for cooking, dining, living and sleeping, occupied or to be occupied by one or more persons as a home or residence.

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 to be deemed 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 is located a building or buildings or structure or structures which include one or more rental dwelling units.

§ 72-3 Exceptions.

- A.** Rental registration and inspection exceptions. The rental registration and inspection requirements of this article shall not apply to owner-occupied one-family dwellings, hotels and motels, bed and breakfasts, nursing homes, hospitals, adult homes, assisted living facilities, hospice residences, and other licensed residential health care facilities. Otherwise, all other dwelling units rented that are equipped with bathing

room(s), and areas or rooms for cooking, dining, living and sleeping, occupied or to be occupied by one or more persons as a home or residence, must be registered with the Village.

- B.** Voluntary inspection exceptions. The voluntary inspection aspects of this article shall not apply to owner-occupied dwellings; multifamily dwellings owned by a duly established public housing authority or leased directly to the U.S. government; any federal, state, or locality-owned or locality-managed buildings, Section Eight, and other subsidized housing subject to other inspection requirements; and any newly built and renovated housing receiving a certificate of occupancy within the preceding five years that has been approved for occupancy by the Code Enforcement Officer.

§ 72-4 Applicability; more restrictive provisions to prevail.

- A.** Scope. This article shall apply to all rental dwelling units located within the Village, with the exception of those delineated in **§ 72-3B**.
- B.** Applicability. The provisions of this article shall be deemed to supplement applicable state and local laws, ordinances, codes, rules and regulations, and nothing in this article shall be deemed to abolish, modify, limit, impair, supersede or replace any existing requirements of, or remedies under, any other applicable federal, state or local statute, laws, ordinances, codes, rules or regulations. In case of conflict between any provision of this article and any applicable federal, state or local statute, law, ordinance, code, rule or regulation, the more restrictive or stringent provision or requirement shall prevail. The acceptance of any registration, the filing of any application under this article or other compliance with the requirements of this article shall not cause, or be deemed to cause, any circumstance, condition, status, action, or statement of facts that is otherwise illegal, unlawful or noncompliant under any federal, state or local statute, law, ordinance, code, rule or regulation, including, but not limited to, the Village Code, to become or be deemed to be lawful, legal or in compliance.

§ 72-5 Rental occupancy registration required.

It shall be unlawful and a violation of this article for any owner of any rental property or rental dwelling unit in the Village to establish, maintain, use, let, lease, rent or suffer or permit the occupancy and use thereof as a rental occupancy without first obtaining and thereafter maintaining in full force and effect a certificate of registration from the Village, as herein provided.

§ 72-6 Application for rental registration.

- (1)** Application for a certificate of registration of a rental dwelling unit shall be made, in writing, on a required form provided by and to be filed with the Department for that purpose. A separate application shall be made for each building or structure containing one or more rental dwelling units. In the event that any rental dwelling unit or rental property is owned by more than one person, the application shall be executed by each such owner. In those instances in which it is owned by a business entity, the application shall be executed by the chief executive officer of such entity (e.g., president, general partner, managing member).
- (2)** Designation of a managing agent. If the owner of the rental dwelling unit does not live within and/or maintain an office or a place of business within Orange County, a managing agent must be designated. The name, address (street address and any post office address), telephone number and e-mail address of the local managing agent or agents or operator of each such intended rental property shall be provided. The agent shall be a person 18 years of age or older, who resides within the County of Orange, New York, or conducts a business, the main office or branch of which is located in the County of Orange. The agent shall be designated by such owner as in control of and responsible for the maintenance and operation of such dwelling and who shall be designated as the person upon whom process and other notice may be served on behalf of the owner. Owner or Owner Agent must be available 7 days a week 24 hours per day.

(3) Conditions to be met, acknowledgement.

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

- (a) Rental properties and all rental dwelling units thereon shall comply with all applicable federal, state or local statutes, laws, ordinances, codes, rules or regulations, including the applicable provisions of the New York State Fire and Building Codes, as the same may, from time to time, be amended.**
- (b) Operational smoke and carbon monoxide detectors as required by the BUILDING AND FIRE CODE OF THE STATE OF NEW YORK.**
- (c) Exterior walls, including foundations, shall be maintained. All exterior walls and foundations must be free of holes and crevices.**
- (d) Exterior doors, windows, skylights and similar openings shall be maintained, secured and weathertight.**
- (e) Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in a safe and sound condition.**
- (f) Roofs shall be maintained in a weathertight condition, secured by normal means.**
- (g) Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.**
- (h) Exterior surfaces shall be maintained in good condition.**
- (i) Interior living spaces, including kitchen(s), bathroom(s), and bedroom(s), are in compliance with the New York State Fire and Building Code.**
- (j) Operable heating system.**

(2) The application for registration will also affirm that the owner has received and read the following portions of the Village Code and understands the obligation and responsibility to comply with all applicable state and local laws, including but not limited to:

- (a) Chapter 82, Brush, Grass and Weeds.**
- (b) Chapter 59, Garbage, Rubbish and Refuse.**
- (c) Chapter 98-15.1 Prohibition on Short Term Rentals**

(3) Such application shall be signed by the owner(s).

§ 72-7 Registration application fees.

- A. Registration application fee.** A nonrefundable registration application fee shall be paid to the Village 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 Village Board by resolution. The Village 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 Officer 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.

§ 72-8 Review of application.

The Code Enforcement Officer shall review each application for completeness and accuracy. The Code Enforcement Officer shall also review all available information to confirm that the rental property and all rental dwelling units thereon are in compliance with the BUILDING AND FIRE CODE OF THE STATE OF NEW YORK or provisions of the Code of the Village of Chester 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. Notice to the owner of acceptance or rejection of the application shall be made in writing.

§ 72-9 Term of certificate of registration.

A. A certificate of registration, pursuant to this article, 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 three 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 article:

(1) No less than 60 days prior to:

(a) The expiration of the then-current certificate; or

(b) 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

(2) Except for any change in the information provided in the application pursuant to § 72-6(A), in the event that the prior application is no longer complete or accurate, within thirty (30) days following the occurrence of the event or change in circumstances requiring the updating of such information.

B. In the event a new application is not filed if and when required pursuant to this section, the existing certificate of registration shall be null and void.

§ 72-10 Record of registrations.

It shall be the duty of the Code Enforcement Officer to maintain a record of registrations pursuant to this article. 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 Village 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.

§ 72-11 Presumptions applicable to rental registration enforcement and prosecutions.

A. Within the context of this article, 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 (2) 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, online site, or posted or billed as being available for rent in any manner.
- 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 Village Code.
- C.** Nothing herein shall be construed to prevent persons living together with any owner as a two-family unit as defined by the Village Code.

§ 72-12 Registration effective date and deadline.

The rental registration requirements of this article shall be effective immediately. However, current owners renting in the Village of Chester, shall have 30 days from the effective date of this law to register.

§ 72-13 Procedures to obtain voluntary certificate of inspection and maintenance compliance.

- A.** Voluntary inspections. On the 31st day after this law becomes effective, upon the request of any rental unit owner, managing agent, or tenant, the Code Enforcement Officer shall have authority to inspect the subject rental property/rental dwelling unit(s). In doing so, the Code Enforcement Officer shall be entitled to rely upon the representation of said owner or managing agent that the inspection of any occupied unit is with the consent of the tenant. Upon successful inspection, a certificate of inspection and maintenance compliance will be issued.
- B.** A certificate of inspection and maintenance compliance issued under **Subsection A** above will be valid for three years from the last day of the month in which it is issued, and therefore must be kept current to be effective.

§ 72-14 Inspections; positions of certificate.

- A.** Inspection procedures. A certificate of inspection and maintenance compliance may only be obtained after an inspection of the dwelling, including all dwelling units, by the Code Enforcement Officer or his or her deputies. Either a certificate of inspection and maintenance compliance or a notice of violation shall be issued within fifteen (15) days after the date of such inspection.
- (1) If violations are found during the inspection, such violations shall be corrected, or the dwelling unit vacated, within a period of time ranging from ten (10) days to six (6) months, depending on the severity of the violation and the physical requirements necessary to remedy such violations, as determined by the Code Enforcement Officer.

(2) A reinspection may be conducted at any time during the period of the certificate of inspection and maintenance compliance, with a minimum of ten (10) days' notice to the owner or his agent, if a signed complaint of noncompliance is received from a person or persons renting a dwelling unit, or upon less notice if deemed necessary by the Code Enforcement Officer in case of emergency. Such reinspection shall have the same force as the original inspection.

(3) An owner's refusal to permit inspection of a tenant's rental unit shall be admissible as evidence of a breach of the warranty of habitability in any action by the landlord for remedy under the lease or to recover real property in a special proceeding under the provisions of the New York Real Property Actions and Proceedings Law.

B. Posting of certificate of inspection and maintenance compliance. The certificate of inspection and maintenance compliance issued pursuant to this article shall be posted in a conspicuous place in the dwelling upon its issuance. The certificate shall be valid for a period of three years from the date of issuance unless a reinspection discloses violations. Upon correction of the violations, the certificate shall then be valid for the remainder of the original period of issuance.

§ 72-15 Penalties for offenses.

Any rental dwelling unit not registered pursuant to the provisions of this article shall not, following the 30th day after the effective date of this law, be offered for rental. Any owner whose failure to comply with the provisions of this article results in legal action by the Village to either compel compliance or to enjoin occupancy shall be liable to the Village, as part of any judgment obtained by the Village, for the Village's costs, including reasonable attorney's fees, in obtaining such judgment.

A. Any person or entity that shall violate any of the provisions of this article or who fails to comply with any of the requirements thereof shall be guilty of a violation, punishable by:

(1) A fine of not less than \$500 and not exceeding \$1,000 upon conviction of a first offense.

(2) A fine of not less than \$1,000 nor more than \$3,000 upon a conviction of the second of two (2) offenses, both of which were committed within a period of five (5) years.

(3) A fine of not less than \$3,000 nor more than \$5,000 upon a conviction of the third of three (3) offenses, all of which were committed within a period of five (5) years.

B. Each week a violation continues shall be deemed a separate offense subjecting the offender to additional weekly fines in the amount equaling the original fine.

C. The Board of Trustees may amend the penalties by resolution.

§ 72-16 Severability.

If any clause, sentence, paragraph, section or part of this article 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.

Section 4. Authority.

The Village Board is vested with the authority to make these amendments by Local Law pursuant to Municipal Home Rule Law § 10.

Section 5. Severability.

If a court of competent jurisdiction 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 court's 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 6. Code Preparation.

The Village Code preparation contractor is authorized, without further action of the Village Board, to correct typographical errors, numbering and other related technical changes that do not affect or alter the substantive provisions of this Local Law.

Section 7. Effective Date.

This Local Law shall be effective immediately upon filing with the Secretary of State.