

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2022**

**A LOCAL LAW AMENDING CHAPTER 2 OF THE TOWN CODE
ENTITLED “ADMINISTRATION AND ENFORCEMENT”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 2 of the Town Code entitled “Administration and Enforcement” in order to prohibit the establishment and operation of short-term or transient rentals within the Town. The Board recognizes that oftentimes the occupants of such short-term rentals are not invested in, nor do they have any connection to, the Town community and the residential neighborhood in which the short-term rental is located. In instances where the owner of a rental dwelling is not present during a short-term stay, the presence of transient visitors can adversely impact the community because of the potential for excessive noise, parking issues, disorderly conduct, the accumulation of refuse, and other nuisances. In addition, short-term rentals remove housing stock that could otherwise be available for long-term rentals or sale. The provisions of this section are intended to preserve and protect the health, character, safety, and general welfare of the residential and mixed-use neighborhoods where such uses may exist, and to mitigate the adverse effects of short-term rentals.

Section 2.

Sections 2-101 through 2-104 of Article VI of Chapter 2 of the Town Code are hereby amended as follows:

Article VI Rental Dwelling Units

§ 2-101 Definitions.

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

CODE ENFORCEMENT OFFICER

The Commissioner of Buildings or the Commissioner of Public Safety of the Town of North Hempstead or their delegates or assistants.

DWELLING UNIT

A ~~[structure or building or part thereof or an area, room or rooms therein, occupied or to be occupied by]~~ **single unit providing complete, independent living facilities for** one or more persons, ~~[as a home or residence]~~ **including permanent provisions for living, sleeping, eating, cooking and sanitation.**

OWNER:

[Amended 5-18-1999 by L.L. No. 6-1999]

- A. Owner, lessee, agent or other person in control of a dwelling unit or any other person or persons or entity or entities having the right to possession of a dwelling unit, except:
- (1) A Public Housing Authority organized as such under the laws of the State of New York;
 - (2) A cooperative corporation whose offering statement or prospectus has been accepted by the New York State Attorney General for filing under General Business Law § 352-e; and
 - (3) A not-for-profit corporation organized to own and operate a low-income or moderate-income senior-citizen housing project in conjunction with the New York State Division of Housing and Community Renewal.
- B. Under this definition, a tenant can be an "owner" in relation to a subtenant.

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.

RENTAL OCCUPANCY

The occupancy or use of a dwelling unit by one or more persons 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 building containing the dwelling unit does not reside in the same building.

SHORT-TERM RENTAL PROPERTY

- A. A dwelling unit occupied by persons other than the owner and for which rent is received by the owner, directly or indirectly, in exchange for such rental occupancy for a period of less than 30 consecutive days. The term "short-term rental property" shall not include any lawfully operating commercial hotel/motel business establishment that has been duly issued a certificate of authority by the Treasurer of Nassau County pursuant to section 3(C) of Title 24 of the Miscellaneous Laws of Nassau County. A property or dwelling unit that is offered for occupancy in any medium, including but not limited to advertisement on short-term rental websites, as being available for rental occupancy for a period of less than 30 days shall create a presumption that a property or dwelling unit is being used as a short-term rental property.**

B. The foregoing presumption may be rebutted by documentary or other evidence presented to and satisfactory to the Code Enforcement Officer that the dwelling unit is not a short-term rental property.

§ 2-102 Applicability; more restrictive provisions to prevail.

- A. Scope. This article shall apply to all rental dwelling units located within the unincorporated area of the Town, whether or not the use and occupancy thereof shall be permitted under the applicable use regulations for the zoning district in which such rental dwelling unit is located, as in this article provided.
- B. Applicability. The provisions of this article shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations; and nothing in this article shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, 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 article 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 article does not make legal any action or statement of facts that is otherwise illegal under any other applicable legislation.

§ 2-103 Rental occupancy permit required.

It shall be unlawful and a violation of this article and an offense within the meaning of the Penal Law of the State of New York for any person or entity who owns a dwelling unit in the Town to establish, maintain, use, let, lease, rent or suffer or permit the occupancy and use thereof as a rental occupancy, **regardless of duration of rental occupancy**, without having a valid permit for such rental occupancy, as herein provided. **No rental occupancy permit shall be granted to use a dwelling unit or segment thereof, as a short-term rental property.**

§ 2-104 Application for rental occupancy permit.

- A. 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.
- B. 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) 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 premises intended for rental occupancy.

- (4) A description of the structure, including:
 - (a) The number of rental dwelling units in the structure;
 - (b) The number of persons intended to be accommodated by and to reside in each such rental dwelling unit; and
 - (c) The number of rooms and the dimensions and use of each room in the structure but outside of the rental dwelling units.
 - (5) For each rental dwelling unit, a description of the unit, including:
 - (a) The number of rooms in the rental dwelling unit; and
 - (b) The dimensions and use of each such room.
 - (6) The name, address and telephone number, if any, of the managing agent or operator of each such intended rental dwelling unit.
- C. Such application shall be signed by the owner of the premises, and the statements of such owner therein contained shall be verified under oath. If an owner is a natural person permanently residing outside of Nassau, Suffolk, Queens, Kings, New York, Richmond, Bronx and Westchester Counties, the application may be signed on behalf of the owner and may be verified by a managing agent having personal knowledge of the facts.
- D. Such application shall be accompanied by the following:
- (1) A property survey of the premises drawn to a scale not greater than 40 feet to one inch; or 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 vehicle parking facilities.
 - (2) A building permit application, properly prepared, for all proposed buildings, improvements and alterations to existing buildings on the premises, if any.
 - (3) A copy of the certificate of occupancy or certificate of existing use. No application will be accepted without the submission of a valid certificate of occupancy or certificate of existing use.
- 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.

Section 3.

Article VII of Chapter 2 of the Town Code is hereby amended as follows:

Article VII Illegal Use and Occupancy

§ 2-135.1 Short-term rentals prohibited.

No dwelling unit or segment thereof, or rooming unit, may be used as a short-term rental property as defined in § 2-101.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this article or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this article, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date.

This Local Law shall take effect October 1, 2022, after filing with the Secretary of State.