

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Board of Trustees of the Village of North Haven will hold a public hearing on the 10th day of March 2020, at 5:30 P.M., at the Village Hall, Ferry Road, North Haven, New York, to consider the adoption of a Local Law as follows:

**LOCAL LAW NO. 2 OF 2020
A LOCAL LAW AMENDING VILLAGE CODE § 163-77 to 163-95**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF NORTH HAVEN AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to modify the existing Summer rental code to multi year permit and limit

SECTION 2. Amendment of Village Code 163-77 to 163-95

§ 163-77 Definitions.

The following terms shall have the meanings indicated:

DWELLING UNIT

As defined in § 163-5.

ENFORCEMENT AUTHORITY

The village agency or official charged with issuing rental permits and enforcing the provisions of this chapter. Said agency or official shall be designated by resolution of the Village Board but must be one of the following: the Chief Building Inspector or his designee, or the Code Enforcement Officer.

FAMILY

One of the following:

- A.** One, two or three persons occupying a dwelling unit; or
- B.** Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

(1) Evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal custody shall create a rebuttable presumption that such persons do not constitute the functional equivalent of a traditional family

(2) The foregoing presumption may be rebutted by submitting evidence to the Chief Building Inspector that all of the following are present:

(a) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;

(b) The occupants share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which various

occupants act as separate roomers is not deemed to be occupied by the functional equivalent of a traditional family;

(c) The group shares expenses for food, rent or ownership costs, utilities and other household expenses;

(d) The group is permanent and stable. Evidence for such permanency and stability may include:

[1] The presence of minor dependent children regularly residing in the household who are enrolled in local schools;

[2] Members of the household have the same address for purposes of voter registration, driver's license, motor vehicle registration and filing of taxes;

[3] Members of the household are employed in the area;

[4] The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;

[5] There is common ownership of furniture and appliances among the members of the household; and

[6] The group is not transient or temporary in nature.

(e) Any other factor reasonably related to whether the group is the functional equivalent of a family.

(3) An appeal from the Chief Building Inspector's determination may be taken to the Village Board, by written request, within 30 days of such determination. The Village Board shall hold a public hearing on such appeal within 60 days after receipt of written notice of such appeal and, after such hearing, shall make written findings and a decision either sustaining or reversing such determination within 30 days after close of such public hearing.

IMMEDIATE FAMILY

The owner's spouse, children, parents, siblings, grandparents or grandchildren.

MANAGING AGENT

Any individual, business, partnership, firm, corporation, enterprise, trustee, company, industry, association, public entity or other legal entity responsible for the maintenance or operation of any rental property as defined within this chapter.

OWNER

Any person, individual, association, entity or corporation whose name is listed as grantee on the last deed of record for the property, as recorded with the Suffolk County Clerk.

PERSON

Includes any individual, business, partnership, firm, corporation, enterprise, trustee, company, industry, association, public entity or other legal entity.

PUBLISH

Promulgation of an available rental property to the general public or to selected segments of the general public, in a newspaper, magazine, flyer, handbill, mailed circular, bulletin board, sign or electronic media.

REGIONALLY SIGNIFICANT EVENT

A major one-time or recurring event of limited duration that is expected to draw significant numbers of visitors to the Village of North Haven to attend, support or participate in such event.

RENEWAL RENTAL PERMIT

A permit which is to be issued to the owner of the rental property where such dwelling unit has been the subject of a rental permit continuously prior to the date of the application for the permit.

RENT

A return, in money, property or other valuable consideration (including payout in kind or services or other thing of value), for the use and occupancy or the right to the use and occupancy of a rental property, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL PERMIT

A permit issued by the enforcement authority issued to the owner to allow the use or occupancy of a rental property.

RENTAL PROPERTY

A dwelling unit which is occupied for habitation as a residence by persons, other than the owner or the owner's immediate family, and for which rent is received by the owner, directly or indirectly, in exchange for such residential occupation. For purposes of this chapter, the term "rental property" shall mean all non-owner-occupied single-family residences, two-family residences, accessory apartments and townhouses, and shall exclude:

A. Properties used exclusively for nonresidential commercial purposes in any zoning district; or

B. Any legally operating commercial hotel/motel business or bed-and-breakfast establishment operating exclusively and catering to transient clientele, that is, customers who customarily reside at these establishments for short durations for the purpose of vacationing, travel, business, recreational activities, conventions, emergencies and other activities that are customary to a commercial hotel/motel business.

TENANT

An individual who leases, uses or occupies a rental property.

TRANSIENT

A rental period of 14 days or less.

§ 163-78 Applicability; more restrictive provisions to prevail.

A. Scope. This chapter shall apply to all rental properties located within the Village, whether or not the use and occupancy thereof shall be permitted under the applicable use regulations for the zoning district in which such rental property is located.

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, 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 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. For the purposes of the issuance of appearance tickets pursuant to the New York State Criminal Procedure Law and Village of North Haven Code Chapter 6, Appearance Tickets, a violation of this chapter shall be deemed a violation of a Building Code.

C. The name of the tenant, date of birth of the owner(s), and the telephone number of the owner(s) information provided in an application for a rental permit under this chapter shall be deemed personal and private in nature, and the release or disclosure of said information pursuant to public request shall be deemed to constitute an unwarranted invasion of personal privacy under New York State Public Officers Law, Article 6, §§ 84 through 90, and shall not be authorized.

§ 163-79 Rental permit required.

A. Effective _____, no owner shall cause, permit or allow the occupancy or use of a dwelling unit as a rental property without a valid rental permit.

B. Effective _____, no person shall occupy or otherwise use a dwelling unit as a rental property without a valid rental permit being issued for the dwelling unit.

C. A rental permit issued under this chapter shall only be issued to the owner(s) of the real property at issue.

§ 163-80 Term of permits and renewal.

A. All permits issued pursuant to this chapter shall be valid for a period of two years from the date of issuance.

B. A renewal rental permit application signed by the owner shall be completed and filed with the enforcement authority before the expiration of any valid rental permit. The renewal rental permit application shall contain the following:

(1) An official copy of the prior valid rental permit;

(2) A signed and sworn affidavit by the owner affirming that the rental property, to the best of his/her knowledge, fully complies with

all of the provisions of the Code of the Village of North Haven and the New York State Uniform Fire Prevention and Building Code, that the structure has not been physically altered in any way, except in full conformance with a valid building permit, and the owner is not aware of the property being in violation of the Code of the Village of North Haven or the New York State Uniform Fire Prevention and Building Code.

C. In the event of a change in tenancy occurring during a permit term, the owner shall notify the enforcement authority, in writing, of the identity of the new tenants, together with the license plate number of each tenant.

§ 163-81 Application for rental permit.

A. Where a dwelling unit is to be used as a rental property, an application for a rental permit shall be filed with the enforcement authority before the term of the rental is to commence.

(1) The owner of a rental property having failed to comply with the requirements of **§ 163-81A** shall file all appropriate rental application documents within 30 days of the receipt of actual notice of said failure to comply. Actual notice shall include but not be limited to the issuance of a summons or notice of violation and/or written notice from any North Haven Village official.

B. The application shall contain the following:

(1) The name, date of birth, telephone number and address of the owner(s).

(a) Proof of the legal residence of each owner;

(b) In the event that the owner of the rental property is a corporation, partnership, limited liability company, or other business entity, the name, proof of legal residence, and telephone number of each owner, officer, principal shareholder, partner and/or member of such business entity shall be provided;

(c) A copy of the last deed of record for the property, as recorded with the Suffolk County Clerk, confirming the ownership of record of the property.

(2) The name, address and telephone number of the managing agent, if applicable.

(3) A writing, promulgated by the Office of the Village Attorney, executed by the owner(s) of the rental property, which designates either:

(a) A person, firm or corporation with an actual place of business, dwelling place, or usual place of abode located within the boundaries of the Village of North Haven; or

(b) The Village Clerk of the Village of North Haven as agent for service for criminal and civil process pursuant to CPLR Section 318. Every owner shall insure that the address for delivery of such process is current and shall advise the Village Clerk whenever the address is changed. The designated agent, upon receipt of service of process under this designation shall forthwith transmit by

regular and certified mail to the owner(s) of the rental property at the address included on the owner(s) application.

(4) The location of the rental property, including the street address and the Suffolk County Tax Map parcel number.

(5) The number of tenants intended to occupy the rental property.

(6) A copy of a contract with a carter providing for weekly pickup, at a minimum, of refuse and proof by letter from the carter indicating that full payment for the entire term of the rental has been made, or in the alternative, an affidavit from the owner acknowledging responsibility for refuse removal in a timely and efficient manner.

(7) The period of the proposed occupancy.

(8) A floor plan depicting the location and size of each conventional bedroom.

(9) A copy of the certificate of occupancy or pre-existing certificate of occupancy for the rental property.

(10) Written certification from a licensed architect or licensed engineer that states that the rental property fully complies with all of the provisions of the Code of the Village of North Haven. The certification shall include, but not be limited to, the number of each bedroom, the square footage of each bedroom, and a description of every improvement indicated on the survey the existence of and location of all smoke and carbon monoxide detectors. In lieu of the provision of a certification, an inspection may be conducted by the enforcement authority.

C. The owner(s) of the premises and the managing agent, if applicable, shall submit an application that is signed, sworn to and notarized.

§ 163-82 Review of application; issuance of rental permit.

The enforcement authority shall review each application for completeness and accuracy and shall make an on-site inspection of the proposed rental property unless the owner has elected to provide a certification from a licensed architect or a licensed engineer pursuant to **§ 163-81B(10)**. The enforcement authority shall not issue a rental permit, unless the application includes all of the requisite information and documents enumerated in **§ 163-81B(1) through (10)**. If satisfied that the proposed rental property fully complies with the New York State Uniform Fire Prevention and Building Code and the Code of the Village of North Haven and that such rental property would not create a nuisance to an adjoining nearby property, the enforcement authority shall issue the permit or permits. No rental permit shall be issued if there are any violations of the New York State Uniform Fire Prevention and Building Code and the Village of North Haven in existence at the premises.

§ 163-83 Register of permits.

It shall be the duty of the enforcement authority 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 rooms in the rental property, and the date of expiration of the rental permit.

§ 163-84 Fees.

A. A nonrefundable biennial permit application fee, in the amount of \$400, shall be paid upon the filing of an application for a rental permit or a renewal rental permit and if the required inspection is performed by the Village Building Inspector or his designee.

B. The nonrefundable biennial rental permit application fee shall be \$250 if the owner of a rental property elects to provide a written certification from a licensed architect or licensed engineer that states that the rental property fully complies with all of the provisions of the Code of the Village of North Haven pursuant to **§ 163-81B(10)**.

C. If an owner of a rental property is found by any court of competent jurisdiction to have violated this chapter, the nonrefundable biennial rental permit application fee will be \$ [REDACTED].

§ 163-85 Regulations.

A. A rental property shall only be leased, occupied or used by a family as defined by this section.

B. No rental property shall be occupied by more than the number of persons permitted to occupy the dwelling unit under Section 404 of the Property Maintenance Code of the New York State Uniform Fire Prevention and Building Code.

C. No rental property shall be rented more than once in a two-week period.

D. A transient rental is prohibited, except when, after a determination has been made by the Village Board that local transient housing capacity is likely to be inadequate during a regionally significant event, the Village Board may, by resolution, temporarily suspend the transient rental prohibition for specific dates.

E. No bedrooms shall be permitted in the basement of a rental property.

F. The selling of shares to tenants where they obtain rights for use and/or occupancy in a dwelling for less than a month shall be prohibited.

G. The leasing, occupancy or use by a tenant of less than the entire rental property is prohibited.

H. The owner(s) and tenant(s) shall ensure that all applicable parking regulations provided for in the Code of the Village of North Haven are satisfied. Notwithstanding anything to the contrary, no more than four cars shall be parked at any rental property between the hours of 1:00 a.m. and 6:00 a.m. during the term of a rental period.

I. A rental property shall only be occupied or otherwise utilized in accordance with the certificate of occupancy issued for the dwelling unit.

J. The owner(s) and tenant(s) shall ensure that all property maintenance regulations provided for in **§ 55-22** of the Code of the Village of North Haven are satisfied.

K. Dumpsters shall be prohibited in the required front yard and right-of-way. The enforcement authority is authorized to promulgate additional site-specific conditions associated with dumpsters, screening facilities, and off-street parking requirements for rental properties regulated under this chapter. Any such conditions shall be in writing and attached to the rental permit.

L. All gatherings, assemblies, or special events on a rental property shall comply with the regulations provided for in Chapter 47, Assemblies, Mass, of the Code of the Village of North Haven.

§ 163-86 Inspections.

The enforcement authority and Village personnel who are engaged in the enforcement of the provisions of this chapter are authorized to make or cause to be made inspections to determine the condition of rental properties to safeguard the health, safety, and welfare of the public. The enforcement authority and Village personnel who are engaged in the enforcement of the provisions of this chapter are authorized to enter upon any rental property, with the consent of the owner or managing agent if the rental property is unoccupied or upon consent of the occupant if the rental property is occupied.

§ 163-87 Application for search warrant authorized.

The enforcement authority and Village personnel who are engaged in the enforcement of the provisions of this chapter are authorized to make application for the issuance of a search warrant in order to conduct an inspection of any rental property where the owner or tenant refuses or fails to allow an inspection of its premises and where there is reasonable cause to believe that a violation of this chapter has occurred. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York.

§ 163-88 Revocation of permit.

A. The enforcement authority shall revoke a rental permit when he or she finds that the permit holder has caused, permitted or allowed to exist and remain upon the rental property a violation of any provision of the Code of the Village of North Haven for a period of 14 days or more after written notice has been given to the permit holder, managing agent, or tenant of such rental property.

B. An appeal from such revocation may be taken by the permit holder to the Village Board, by written request, made within 30 days from the date of such revocation. The Village Board shall hold a public hearing on such appeal within 60 days after receipt of written notice of such appeal and, after such hearing, shall make written findings and a decision either sustaining such permit revocation or reinstating such permit within 30 days after close of such public hearing. If a rental permit is revoked, the property owner shall be precluded from submitting an application for a rental permit for a period of one year.

§ 163-89 Collection of rent.

The following shall be conditions precedent to the collection of rent for the use and occupancy of a rental property:

A. The existence of a valid rental permit for the rental property.

B. The tendering of a written receipt in exchange for any rent payment offered in cash.

§ 163-90 Presumptive evidence dwelling unit is being used as rental property.

A. The presence or existence of any of the following shall create a presumption that a dwelling unit is being used as a rental property:

(1) The property is occupied by someone other than the owner or his/her immediate family;

(2) Voter registration, motor vehicle registration, a driver's license, or any other document filed with a public or private entity which states that the owner of the rental property 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 in the name of someone other than the record owner;

(4) Persons residing in the dwelling unit represent that they pay rent to occupy the premises;

(5) A dwelling unit which has been published as being available for rent;

(6) Any two of the features enumerated in § 163-91 exist at the dwelling unit.

B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 163-91 Presumptive evidence of multifamily occupancy.

A. It shall be presumed that a single- or one-family dwelling unit is occupied by more than one family if any two or more of the following features are found to exist on the premises:

(1) More than one mailbox, mail slot or post office address;

(2) More than one gas meter;

(3) More than one electric meter annexed to the exterior of the premises;

(4) More than one doorbell or doorway on the same side of the dwelling unit;

(5) More than one connecting line for cable television service;

(6) More than one antenna, satellite dish, or related receiving equipment;

(7) There are three or more motor vehicles registered to the dwelling and each vehicle owner has a different surname;

(8) There are more than three waste receptacles, cans, containers, bags or boxes containing waste from the premises placed for pickup at least twice during a weekly garbage pickup area;

(9) There are separate entrances for segregated parts of the dwelling;

(10) There are partitions or internal doors which may serve to bar access between segregated portions of the dwelling, including but not limited to bedrooms;

(11) There exists a separate written or oral lease or rental arrangement, payment or agreement for portions of the dwelling among the owner and/or occupants and/or persons in possession thereof;

(12) Any occupant or person in possession thereof does not have unimpeded and/or lawful access to all parts of the dwelling unit;

(13) Two or more kitchens, each containing one or more of the following: a range, oven, hotplate, microwave or other similar device customarily used for cooking or preparation of food and/or a refrigerator;

(14) There are bedrooms that are separately locked.

B. If any two or more of the features set forth in Subsection **A(1)** through **(14)** are found to exist on the premises by the enforcement authority or Village personnel engaged in the enforcement of the provisions of this chapter, a verified statement will be requested from the owner of the dwelling unit by the enforcement authority that the dwelling unit is in compliance with all of the provisions of the Code of the Village of North Haven, the laws and sanitary and housing regulations of the County of Suffolk and the laws of the State of New York. If the owner fails to submit such verified statement, in writing, to the enforcement authority within 10 days of such request, such shall be deemed a violation of this chapter.

§ 163-92 Presumptive evidence of owner's residence.

A. It shall be presumed that an owner of a rental property does not reside within said rental property if any of the following sets forth an address other than that of the rental property:

- (1) Voter registration;
- (2) Motor vehicle registration;
- (3) Driver's license; or
- (4) Any other document filed with a public or private entity.

B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 163-93 Presumptive evidence of over-occupancy.

A. It shall be presumed that a bedroom is over-occupied if more than two mattresses exist in a bedroom.

B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 163-94 General applicability of presumptions.

The presumptions set forth in §§ 163-90, 163-91, 163-92, and 163-93, subject to the limitations contained therein, shall also be applicable to the enforcement and the prosecution of building and zoning Village Code violations.

§ 163-95 Penalties for offenses.

A. A violation of this chapter by the owner(s) and/or tenant(s) shall be punishable as follows:

(1) A violation of § 163-81A, § 163-81A(1), or § 163-85A-L is hereby declared to be an offense punishable by a fine not less than \$250 nor more than \$2,500 or imprisonment for a period not to exceed 15 days, or both, for a conviction of a first offense;

(2) A second or subsequent violation of this chapter within an eighteen-month period is hereby declared to be an offense punishable by a fine not less than \$3,000 nor more than \$5,000 or imprisonment not to exceed a period of six months, or both.

(3) For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of this chapter, other than § 163-81A and/or § 163-81A(1), shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall apply. Each day's continued violation shall constitute a separate additional violation.

B. Additionally, in lieu of imposing the fines authorized in § 163-95A, in accordance with Penal Law § 80.05(5), the court may sentence the defendant(s) to pay an amount, fixed by the court, no less than the applicable minimum statutory fine permitted under § 163-95A nor more than double the amount of the rent collected over the term of the occupancy.

C. The court may dismiss the violation or reduce the minimum fine imposed where it finds that the defendant had cooperated with the Village of North Haven in the investigation and prosecution of a violation of this chapter. Factors which the court may consider include, but are not limited to, a report from the office of the Village Attorney confirming that the defendant did in fact cooperate and whether:

(1) The defendant reported the violation(s) to the Village of North Haven;

(2) The defendant assisted the Village of North Haven in investigating and prosecuting the violation(s);

(3) The defendant provided access to the rental property;

(4) The defendant promptly pursued his/her/its own rights under the lease to remedy the violation or adequately pursued an eviction proceeding;

(5) All violations existing at the rental property have been promptly remediated.

D. Where authorized by a duly adopted resolution of the Village Board, the Village Attorney may bring and maintain a civil proceeding, in the name of the Village, in the Supreme Court, to permanently enjoin the person or persons conducting, maintaining or permitting said violation. The owner and tenants of the residence wherein the violation is conducted, maintained or permitted may be made defendants in the action.

(1) If a finding is made by a court of competent jurisdiction that the defendants or any of them has caused, permitted, or allowed a violation of this chapter, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$1,000 for each day it is found that the defendants or any one of them individually caused, permitted or allowed the violation. Upon recovery, such penalty shall be paid into the Village General Fund.

SECTION 3. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to persons with disabilities.

Dated: February 17, 2020

BY ORDER OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF NORTH HAVEN.

BY: Eileen Tuohy, Village
Clerk/Treasurer