

Adopted: June 20, 2023

Councilmember Carini moved the following resolution's adoption:

RESOLUTION ADOPTING A LOCAL LAW TO AMEND CHAPTER 99 OF THE CODE OF THE TOWN OF HEMPSTEAD ENTITLED "REGISTRATION AND PERMITTING OF PROPERTY" IN RELATION TO ACCESSORY STRUCTURES AND PENALTIES.

WHEREAS, the Town Board of the Town of Hempstead is empowered to enact and amend local laws pursuant to Article 9 of the New York State Constitution, the provisions of the Town Law and the Municipal Home Rule Law, as amended; and

WHEREAS, on the 20<sup>th</sup> day of June,2023, Councilmember Carini introduced the proposed local law known as Intro. No. 45-2023, Print No. 1, to consider amending Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" in relation to accessory structures and penalties; and

WHEREAS, this Town Board on June 6, 2023 duly adopted Resolution No. 763-2023, calling a public hearing on the adoption of said local law and said hearing was held on the day of June 20, 2023, at which time all persons desiring to be heard thereon were heard; and

WHEREAS, the proposed local law has been on the desks of the members of the Town Board for seven calendar days, exclusive of Sunday; and

WHEREAS, the following members of the Town Board were present:

Supervisor Donald X. Clavin, Jr.  
Council Member Dorothy L. Goosby  
Council Member Dennis Dunne, Sr.  
Council Member Thomas E. Muscarella  
Council Member Chris Carini  
Council Member Melissa L. Miller  
Council Member Laura A. Ryder,

; and

WHEREAS, it is in the public interest to amend Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" in relation to accessory structures and penalties;

Now, therefore be it,

RESOLVED, the said local law for the amending Chapter 99 of the Hempstead Town Code entitled "Registration and

Permitting of Property" in relation to accessory structures and penalties is adopted; and be it further,

RESOLVED, the Town Clerk shall file certified copies of this local law as required by the provisions of the Municipal Home Rule Law of the State of New York; and be it further:

RESOLVED, that the Town Clerk be and she hereby is directed to record these proceedings, and to post and publish this local law in accordance with the provisions of Chapter 4 of the Code of the Town of Hempstead entitled "Local Laws: Adoption."

The foregoing resolution was seconded by Councilmember Goosby and adopted upon roll call as follows:

AYES: SIX (6)

NOES: NONE (0)

Intro. No.: 45

Print No.: 1

Town of Hempstead

A LOCAL LAW TO AMEND CHAPTER 99 OF THE CODE OF THE TOWN OF HEMPSTEAD ENTITLED "REGISTRATION AND PERMITTING OF PROPERTY" IN RELATION TO ACCESSORY STRUCTURES AND PENALTIES.

Introduced by Councilmember Carini

Be it enacted by the Town Board of the Town of Hempstead as follows:

Section 1.

The definition of "Transient Rental Property" in Section 99-12 of Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" is amended to read as follows:

Chapter 99

Registration and Permitting of Property

\* \* \*

§99-12 Definitions

\* \* \*

TRANSIENT RENTAL PROPERTY

A dwelling unit or portion thereof, detached garage, dock, shed, pool, cabana, athletic or recreational court, or other outdoor accessory structure or yard area occupied or used by persons other than the owner or a family member of the owner and for which rent or other consideration is received by the owner, directly or indirectly, in exchange for occupation or use for a period of less than 28 nights. Transient Rental Property(-ies) shall not include properties used exclusively for nonresidential commercial purposes, or any legally operating Hotel or Motel as those uses are defined in the Building Zone Ordinance. The advertisement to use a Transient Rental Property as defined herein on a short-term rental website such as Airbnb, Home Away, VRBO and the like for a period of less than 28 days shall create a rebuttable presumption that the property is a Transient Rental Property.

\* \* \*

Section 2.

Paragraph (D) of Section 99-13 of Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" is amended to read as follows:

Chapter 99

Registration and Permitting of Property

\* \* \*

§99-13 Rental occupancy permit required.

\* \* \*

D. No rental occupancy permit shall be granted to a Transient Rental Property, and no person shall use or permit the use of a property or portion thereof as a Transient Rental Property.

\* \* \*

Section 3.

Section 99-29 of Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" is amended to read as follows:

Chapter 99

Registration and Permitting of Property

\* \* \*

§ 99-29 Penalties and liabilities for offenses.

A. Any person, association, firm, or corporation who or which violates any provision of this article or assists in the violation of any provision of this article 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. For any second conviction committed within a period of 10 years of the first conviction, such violation will be subject to a fine of not less than \$2,500 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both.

3. For any third conviction, committed within a period of 10 years of the first conviction, such violation will be subject to a fine of not less than \$5,000 nor more than \$25,000 or by imprisonment for a period not to exceed 15 days, or both.

4. For any fourth or subsequent offense, after having been convicted three or more times within a period of 10 years, such violation shall be prosecuted as an unclassified misdemeanor, with a minimum fine of \$10,000 and a maximum fine of \$50,000 and/ by imprisonment for a period not to exceed 15 days, or both.

5. Each day's continued violation shall constitute a separate additional violation of this article.

B. The Town is also authorized to commence any civil action for money damages and/or injunctive relief for violations of this chapter irrespective of any criminal action, and any party found liable for violating this chapter shall also be liable for the Town's costs related to the proceeding.

\* \* \*

Section 4.

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

**ADOPTED: June 20, 2022**  
**EFFECTIVE DATE: JULY 10, 2023**

**Pursuant to the provisions of the New York State Constitution and the Municipal Home Rule Law of the State of New York, as amended, the Town Board of the Town of Hempstead, Nassau County, New York, has hereby enacted the following Local Law:**

A local law Re: "REGISTRATION AND PERMITTING OF PROPERTY" in relation to accessory structures and penalties - (To amend Chapter 99 of the Code of the Town of Hempstead)

Section 1.

The definition of "Transient Rental Property" in Section 99-12 of Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" is amended to read as follows:

Chapter 99

Registration and Permitting of Property

\* \* \*

§99-12 Definitions

\* \* \*

TRANSIENT RENTAL PROPERTY

A dwelling unit or portion thereof, detached garage, dock, shed, pool, cabana, athletic or recreational court, or other outdoor accessory structure or yard area occupied or used by persons other than the owner or a family member of the owner and for which rent or other consideration is received by the owner, directly or indirectly, in exchange for occupation or use for a period of less than 28 nights. Transient Rental Property(-ies) shall not include properties used exclusively for nonresidential commercial purposes, or any legally operating Hotel or Motel as those uses are defined in the Building Zone Ordinance. The advertisement to use a Transient Rental Property as defined herein on a short-term rental website such as Airbnb, Home Away, VRBO and the like for a period of less than 28 days shall create a rebuttable presumption that the property is a Transient Rental Property.

\* \* \*

Section 2.

Paragraph (D) of Section 99-13 of Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" is amended to read as follows:

Chapter 99

Registration and Permitting of Property

\* \* \*

§99-13 Rental occupancy permit required.

\* \* \*

D. No rental occupancy permit shall be granted to a Transient Rental Property, and no person shall use or permit the use of a property or portion thereof as a Transient Rental Property.

\* \* \*

Section 3.

Section 99-29 of Chapter 99 of the Hempstead Town Code entitled "Registration and Permitting of Property" is amended to read as follows:

Chapter 99

Registration and Permitting of Property

\* \* \*

§ 99-29 Penalties and liabilities for offenses.

A. Any person, association, firm, or corporation who or which violates any provision of this article or assists in the violation of any provision of this article 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. For any second conviction committed within a period of 10 years of the first conviction, such violation will be subject to a fine of not less than \$2,500 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both.

3. For any third conviction, committed within a period of 10 years of the first conviction, such violation will be subject to a fine of not less than \$5,000 nor more than \$25,000 or by imprisonment for a period not to exceed 15 days, or both.

4. For any fourth or subsequent offense, after having been convicted three or more times within a period of 10 years, such violation shall be prosecuted as an unclassified misdemeanor, with a minimum fine of \$10,000 and a maximum fine of \$50,000 and/ by imprisonment for a period not to exceed 15 days, or both.

5. Each day's continued violation shall constitute a separate additional violation of this article.

B. The Town is also authorized to commence any civil action for money damages and/or injunctive relief for violations of this chapter irrespective of any criminal action, and any party found liable for violating this chapter shall also be liable for the Town's costs related to the proceeding.

\* \* \*

Section 2. This local law shall become effective immediately upon filing with the secretary of state.

**I, Kate Murray, Town Clerk of the Town of Hempstead, do hereby certify that the foregoing is a true and correct transcript of the above local law enacted by Local Law No. 49-2023 effective July 10, 2023**

**IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Hempstead on this 10th day of August, 2023**

**KATE MURRAY  
TOWN CLERK  
TOWN OF HEMPSTEAD, N.Y.**

(S E A L)