

LOCAL LAW NO. 3 of 2024, AMENDING CHAPTER 73, ADDING
ARTICLE IV-RESIDENTIAL PROPERTY

73-30 A. Legislative Intent

Findings and

determinations.

The Town Board finds and determines that the right to exclude unauthorized persons from the occupancy of Residential Real Property is a substantive and critical component of the right of quiet enjoyment inherent in the ownership of such property. The Board further finds that the government, protection, order, conduct, safety, health and well-being of persons and property therein requires that adequate and efficient remedies are available to the owners of such real property within the Town to ensure the enforcement of such property rights. The legislative intent of the following provisions is to provide local code enforcement as well as law enforcement with procedures to investigate and to provide a remedy to owners of real property within the Town and to protect such owners against unauthorized occupants of residential property within the Town to the maximum extent authorized by Municipal Home Rule Law § 10 (12).

73-30 B.

1. A person who takes up occupancy in an uninhabited or vacant dwelling and such occupancy is without permission and consent of the owner of the dwelling or an authorized representative of the owner shall be deemed to unlawfully occupy the dwelling.
2. A person is presumed to know that their occupancy of the dwelling is without the permission and consent of the owner unless the person provides a written and notarized lease agreement signed by the owner or the owner's authorized representative and includes the current address and telephone number of the owner or the owner's authorized representative.
3. In the event that a person unlawfully occupies the dwelling without the owner's permission and consent such person shall not be deemed to be a tenant and shall be deemed to be a squatter who is trespassing on such property.
4. In the event that a person unlawfully occupies the dwelling without the owner's permission and consent, the rightful owner of such dwelling may execute an affidavit, a copy of which is annexed hereto, attesting to the fact that they are the owner of the dwelling in question; that they have not given any person their permission and consent to occupy or damage the dwelling; that they authorize law enforcement to remove such person or persons occupying the dwelling from said dwelling and/or arrest such person or persons; and that they will hold harmless and indemnify the law enforcement agency and the municipality by which they are employed in the event that a claim is made based upon any misrepresentation in such affidavit or the affiant's failure to give written notice to the law enforcement agency of any changes or amendments to the status of the subject property or any amendments to the representations made in the affidavit.

5. Upon receipt of the aforementioned affidavit, the Sheriff's Office or other law enforcement agency shall verify that the affiant is the record owner of the dwelling in question. If ownership is verified, the Sheriff or other law enforcement agency shall remove the person or persons from the dwelling which such person or persons are unlawfully occupying. Once verified, law enforcement may take the unlawful occupants into custody and bring them without unreasonable delay before a local court judge on trespassing charges as well as any other applicable charges. A request for a stay away order of protection directing the unlawful occupants to stay away from the owner and their dwelling shall be requested by law enforcement shall be made to the Court. If there is no local court judge available to hear the matter without unreasonable delay, then law enforcement may issue an appearance ticket for trespass directing the unlawful occupant or occupants to appear in the local court on the next date that the local court is in session. At which time, a request for a stay away order of protection directing the unlawful occupants to stay away from the owner and their dwelling shall be requested by law enforcement shall be made to the Court. Any order of protection issued by the court may be fully enforced by the Sheriff or other law enforcement agency.
6. Penalties for offenses; enforcement
 - A. Specific penalties

Any person occupying a dwelling in violation of this chapter shall, upon conviction, be punished as follows:

 - (a) Upon a first conviction, by a civil penalty of not less than \$500 and not more than \$1,000.
 - (b) Upon a second conviction, by a civil penalty of not less than \$1,000 and not more than \$2,000.
 - (c) Upon a third or subsequent conviction, by a civil penalty of not less than \$2,000 and not more than \$2,500.
 - (d) Any penalties provided for in N.Y.S. Town Law Sec. 135.
 - B. The continuation of a violation on each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violations may be punished as provided for herein for each separate offense.
 - C. An action or proceeding in the name of the Town of Clifton Park may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the provisions of this chapter.
 - D. This chapter shall be enforced by the Director of Building and Development, Building Inspectors, and Code Enforcement Officers, and by referrals to local law enforcement agencies.