

Local Law 8-2024

A local law adding Chapter 205 (Rental Registry) to the Village of Ossining Code.

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 205 (Rental Registry) is added to the Village of Ossining Code with new matter **underlined**.

Article I General Provisions.

205-1 Purpose and intent.

- A. **The purpose of this chapter is to establish a rental registry for all one- and two-family private dwellings as defined herein that are rented or leased within the Village of Ossining.**
- B. **This local law will enable the Village to identify persons responsible for the care and management of such rental properties which will ensure the enforcement of local, state, and federal regulations.**
- C. **The Village finds that within its boundaries there are numerous one- and two-family private dwellings which are rented or leased that are not subject to inspection pursuant to the New York State Fire Prevention and Building Code (“Uniform Code”). A rental registry will provide the Village an opportunity to identify and correct life and safety issues in these private dwellings.**

205-2 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated.

CODE ENFORCEMENT PERSONNEL

The person(s) who are charged with the administration and enforcement of this chapter.

DWELLING UNIT

A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

PRIVATE DWELLING

Any building or structure designed and occupied exclusively for residence purposes by not more than two families. A building designed for and occupied exclusively by one family is a “single-family private dwelling.” A building designed for and occupied exclusively by two families is a “two-family private dwelling.”

PROPERTY OWNER

Any person, agent, operator, firm, corporation, partnership, limited liability company or other entity having a legal or equitable interest in a property; recorded in the records of the state, county or village as holding title to the property; including the guardian of the estate of such person and the executor or administrator of the estate of such person if ordered to take possession of the property by a court.

RENT

A return to the property owner or lessor of money, property or other valuable consideration for use or occupancy of a dwelling unit

RENTAL PROPERTY

One-family and two-family private dwellings occupied exclusively for residence purposes which are rented, leased, let or hired out to be occupied for at least 30 days.

RENTAL REGISTRY

A list kept by the Village of Ossining Building Department of all rental properties as defined in this chapter within the village.

RENTAL REGISTRY CERTIFICATE

A certificate evidencing compliance with the provisions of this chapter requiring registration of rental properties.

Article II Applicability.

205-3 Rental registry requirements and application.

- A. A property owner is required to obtain a rental registry certificate for each rental property, 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. To obtain a rental registry certificate, the property owner of a rental property must, prior to registration:
 - (1) Complete the rental registry application form as described below.
 - (2) Pay all required fees pursuant to section 205-20.
 - (3) Have no open cases with the Building Department for the rental property being registered.
 - (4) Be current on all Village property taxes and special assessments, water charges and sewer rents for the rental property being registered.
 - (5) Have no pending administrative or court enforcement proceedings brought by the Village involving the rental property being registered.
 - (6) Submit to an exterior and interior inspection of the rental property conducted by Code Enforcement Personnel under the terms and conditions pursuant to sections 205-9-205-13.
- C. A rental registry application form must be completed by the property owner for each rental property and submitted to the Building Department. The form shall require the following information:
 - (1) The rental property address;
 - (2) The section, block and lot number of the rental property as stated on the Tax Map of the village;
 - (3) The number of dwelling units and bedroom count of each dwelling unit in the rental property;
 - (4) The property owner(s)' mailing address and telephone number; and
 - (5) Designation of an agent for notification and service of process where required by this chapter. No post office box address will be accepted in lieu of the domicile and/or street address for any of the information required in this chapter.

- D. It shall be the responsibility of each property owner to timely notify the Building Department whenever the information provided in the rental registry application form has become outdated or for any reason is no longer accurate
- E. It shall be unlawful and a violation of this article for any property owner who owns a rental property within the Village of Ossining to maintain, use, lease, rent or permit occupancy as a rental property after the effective date of this chapter without having registered said rental property with the Building Department.
- F. The Building Department shall review the rental registry application form for completeness and accuracy.

205-4 Denial of rental registry certificate

A rental registry certificate shall be denied in writing by the Building Inspector. The certificate may be denied for any of the following reasons:

- A. The property owner is found to have made false statements or misrepresentations on the rental registry application form or other information required by this chapter;
- B. The property owner does not meet all the requirements set forth in the application;
- C. The rental property does not meet the minimum standards required by applicable state, county or village codes; or
- D. The property owner fails to correct violations identified during the inspection.

205-5 Designation of agent by property owner.

- A. Every property owner of rental property which is subject to the provisions of this chapter and who does not maintain a bona fide residence in the County of Westchester shall designate an agent who maintains a bona fide residence in the County of Westchester. Such designation shall be indicated on the rental registry application form.
- B. A designated agent of a property owner may be served with a notice of violation, order to remedy, notice of unsafe condition, an appearance ticket or other service of process, whether criminal or civil, pursuant to and subject to the provisions of law, as if actually served upon the property owner. No property owner who designates an agent pursuant to the provisions of this chapter may assert the defense of lack of notice or lack of personal jurisdiction based solely upon the service of process upon the designated agent.

205-6 Registration application requirements for entities.

- A. The property owner of rental property that is a corporation, limited liability company (LLC), limited liability partnership (LLP), professional service limited liability company (PLLC) or a general or limited partnership must provide the name, address, telephone number and email address of each principal, partner, member and/or any other party responsible for the contracts and obligations of the entity, and submit that information with the rental registry application form.
- B. At the time of initial registration, such property owner shall provide the entity's articles of incorporation, articles of organization or partnership agreement, together with applicable operating agreement or similar document.
- C. Such property owner also shall identify and provide contact information for its registered agent.

205-7 Provisional certificate.

The Building Inspector may issue a provisional certificate to the property owner of an existing rental property who has submitted an application, paid the certificate fee and had an inspection by Code Enforcement Personnel that resulted in a written order to correct violations/deficiencies. A provisional certificate authorizes the continued occupancy of the rental property as long as the violations/deficiencies are not hazardous to the occupant(s) and the building is not over-occupied or illegally occupied. A provisional certificate is valid for up to 180 days.

205-8 Posting of rental registration certificate.

A property owner shall conspicuously post the rental registration certificate within a common space of the rental property and must make the rental registry certificate available to present to Code Enforcement personnel. If there is no common space, then a copy of the rental registry certificate must be conspicuously posted within the interior of each dwelling unit.

205-9 Inspections

- A. Rental property is subject to inspection by Code Enforcement Personnel to determine the condition of the rental property and to safeguard the health, safety and welfare of occupants and the public.
- B. Code Enforcement Personnel are authorized to enter any rental property upon the consent of the property owner if the dwelling unit is unoccupied or upon consent of the occupant if the dwelling unit is occupied. Code Enforcement Personnel may enter the rental property between the hours of 9:00 am and 4:00 pm Monday through Saturday or as scheduled with the owner and/or tenant.

205-10 Search warrants.

Nothing in this chapter shall be construed to require a property owner to consent to an inspection of rental property in order to determine compliance with applicable Code provisions. However, nor shall this chapter be construed as relieving the obligation of a property owner to apply for and secure a rental registry certificate for the rental property. When applying for a rental registry certificate a property owner shall have the right to decline to consent to the inspection. In such instance, the Village shall, without further notice to the property owner, apply for a search warrant to conduct the inspection. However, if the rental property is occupied, notice to the occupant or other person with apparent right of possession shall be required in accordance with the procedure outlined in section 205-11.

205-11 Notice of intent to conduct inspection.

- A. Before an application may be made for a search warrant for a rental registry inspection of occupied rental property, Code Enforcement Personnel shall give prior notice of his or her intent to conduct an inspection to the occupant or other person with apparent right of possession. No notice is required for a property owner who has declined to consent to an inspection when applying for a rental registry certificate. No further notice is required before additional warrants are sought to inspect a premises, including warrants to reinspect a premises if cited violations

have been corrected, or additional warrants are necessitated by the expiration of a warrant before an inspection could be completed.

- B. The notice of intent to conduct an inspection shall contain the following:
- (1) The date and time at which the designated Code Enforcement Personnel will be present to conduct the inspection;
 - (2) Instructions on how to reschedule the inspection to another date and time by contacting the Building Department before the stated date of inspection;
 - (3) Notice that if the inspection is not allowed to be conducted, the Village reserves its right to make an application to a court of competent jurisdiction for a search warrant to so inspect; and
 - (4) Notice that a tenant may be protected against retaliation by the owner/lessor for making a good faith complaint of code violations pursuant to § 223-b of the New York State Real Property Law.
- C. Service of the notice of intent to conduct an inspection must be sent either by first class mail or personally delivered to the occupant or person with apparent right of possession. The notice shall be addressed to the occupant(s) of record if the names are provided to the Building Department by the property owner in writing, otherwise notice shall be sufficient if addressed to the occupant of a particular unit.

205-12 Inspection search warrant application.

- A. Code Enforcement Personnel shall apply for a search warrant after notice of intent to conduct an inspection has been given or if the person notified does not allow, fails to schedule or unduly delays or hinders the inspection.
- B. The application for a warrant shall be in writing and contain the following information:
- (1) The name of the court to which it is addressed;
 - (2) The name of the Code Enforcement Personnel;
 - (3) The date of the application;
 - (4) Indicate that an inspection is required under this chapter for the issuance of a rental registration certificate;
 - (5) Describe the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted;
 - (6) Identify the premises to be entered and inspected in sufficient detail and particularity so that Code Enforcement Personnel executing the warrant may readily ascertain the premises;
 - (7) For cases where prior notice of intent to conduct an inspection is required, the application should contain specific information showing how and when the notice was given, which most recent notice shall have been given within 90 days of the application for a warrant, and how the inspection has not been allowed, has not been scheduled or has been unduly delayed or hindered by the person notified;
 - (8) Request that the court issue a warrant directing an inspection of the subject premises for civil enforcement purposes only which may include the photographing or recording of the physical conditions found on the property, subject to such limitations and restrictions as may be directed by the court; and
 - (9) The application shall be subscribed and sworn to by the applicant before a Commissioner of Deeds or a notary public.

205-13 Execution of inspection search warrant.

- A. **In executing the inspection search warrant, Code Enforcement Personnel authorized by the court to execute the warrant shall, before entry, make a reasonable effort to present his/her credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant and deliver a copy of the warrant to such person.**
- B. **When authorized in the warrant, a police officer may accompany Code Enforcement Personnel during the execution of the warrant. Absent such authorization, a police officer shall not accompany the Code Enforcement Personnel during the inspection of the interior portions of a building not open to the public.**
- C. **A warrant shall be executed within the time specified in the warrant.**

205-14 Unlawful actions.

- A. **It shall be unlawful for any person to willfully deny or unduly delay entry or access to Code Enforcement Personnel with a search warrant authorizing inspection of said premises, to willfully deny or interfere with the inspection authorized by the warrant, or after receiving a copy of a warrant regarding the scheduling of an inspection, to willfully fail to schedule a reasonable date and time for the inspection as set forth in the warrant. Any person who violates this section shall be subject to an application to be found in contempt of court pursuant to Article 19 of the Judiciary Law and punishment as provided therein.**
- B. **It shall be unlawful and a violation of this article for any person, entity, corporation, broker or agent to list, advertise, repeatedly and/or knowingly show or otherwise offer for lease, rent or sale on behalf of the owner or authorized agent any rental property for which a current rental registry certificate has not been issued by the Village of Ossining Building Department. It shall be the person's, entity's, corporations' broker's or agent's duty to verify the existence of a valid rental registry certificate before listing, advertising, repeatedly and/or knowingly showing or otherwise offering for lease, rent or sale any such rental property in the Village of Ossining.**

Article III Renewal of Rental Certificates.

205-15 Term of rental registry certificate and renewal.

- A. **Rental registry certificates will expire three (3) years after the date of issuance. The rental registry certificate will terminate upon a change in status unless the certificate is transferred pursuant to section 205-16. The expiration date shall appear on each rental registry certificate.**
- B. **No less than forty-five (45) days nor more than ninety (90) days prior to the expiration of a rental registry certificate, a property owner must apply in writing to renew the rental registry certificate if the property owner intends to continue renting or leasing the rental property.**
- C. **To renew the rental registry certificate the property owner shall:**
 - 1. **Submit to an interior and exterior inspection of the rental property and**
 - 2. **Complete the rental registry application renewal form and pay the required fee.**

- D. Denial of a renewed rental registry certificate shall be in writing directed to the property owner and/or agent. Renewal of a rental registry certificate may be denied for any of the following reasons:
1. If the property owner is found to have made false statements or, misrepresentations on the rental registry certificate renewal application or other information required by this chapter;
 2. If the property owner does not meet all the requirements set forth in the renewal application;
 3. If the rental property does not meet the minimum standards required by applicable state, county and village codes; or
 4. If the property owner fails to correct violations identified during the inspection.

205-16 Status

- A. A property owner with a rental registry certificate shall notify the Building Department in writing within 30 calendar days of any transfer of ownership of the rental property. The notification shall include contact information for the new property owner(s).
- B. Any person who takes ownership of rental property with a rental registry certificate shall apply to the Building Department within 30 calendar days after taking ownership of the rental property for a transfer of the certificate for the unexpired portion of the term for which the certificate was issued.
- C. A request to transfer the rental registry certificate shall be on a form provided by the Building Department and shall include the information requested in sections 205-3, 205-5 and 205-6 of this chapter.
- D. When the ownership of rental property is transferred, the transferee shall promptly notify all tenants in the rental property of the transferee's name, street address (not post-office box), email address, telephone number and similar contact information if an agent has been designated.

205-17 Revocation of rental registry certificate.

- A. Revocation. A rental registry certificate may be revoked by the Building Inspector by notification to the property owner in writing, upon the occurrence of any of the following events:
- (1) If the property owner is found to have made false statements or misrepresentations on the rental registry application or other information required by this chapter;
 - (2) Upon a court determination that the owner failed to comply with any property maintenance, zoning, building, fire or other applicable state, county or village codes relating to the rental property;
 - (3) Failing to correct deficiencies noted in an order to remedy, notice of dangerous condition or court appearance ticket;
 - (4) The recipient of a provisional rental registry certificate fails to correct the deficiencies/violations prior to the 180-day expiration date; and
 - (5) Failing to comply with the provisions of this chapter or other relevant Village of Ossining laws.
- B. Notice of the revocation of the rental registry certificate shall be served upon the property owner personally or by certified mail, certified receipt requested. Additionally, a copy of the notice of revocation shall be posted on the outside of the rental property at all entrances/exits. Revocation of the rental registry certificate shall be effective 14 days after service of the notice.

- C. When a rental registry certificate has been revoked or when an application for a rental registry certificate, renewal certificate or transfer of certificate has been denied, it shall be unlawful for the property owner to rent or lease the dwelling units until the rental registry certificate has been issued, re-issued, transferred or reinstated.

205-18 Appeals

The decision to: i) deny a rental registry certificate; ii) revoke a rental registry certificate; iii) deny renewal of a rental registry certificate; or iv) deny an application to transfer a rental registry certificate may be appealed to the Corporation Counsel as hearing officer. The appeal shall be filed with the Corporation Counsel no later than 10 days after the decision denying/revoking the certificate. The appeal shall include a written statement providing the applicant/certificate holder's name and contact information as well as contact information, if any, for the applicant/certificate holder's representative. The appeal statement shall detail the basis for which a determination should be made reversing or modifying the determination of Code Enforcement Personnel. The applicant/certificate holder may be represented by counsel and may present evidence. Code Enforcement Personnel similarly may present evidence. Upon consideration of the evidence presented, but in no event later than 10 business days after the close of the hearing, the Corporation Counsel shall issue a decision sustaining, modifying or reversing the decision of Code Enforcement Personnel. The Corporation Counsel's decision shall be filed with the Village Clerk and be sent to the applicant/certificate holder and the applicant/certificate holder's representative. Upon filing with the Village Clerk, the Corporation Counsel's decision will become final. The Corporation Counsel's decision is subject to review pursuant to Article 78 of the Civil Practice Law and Rules. Such proceeding must be commenced within 30 days of the filing of the Corporation Counsel's decision.

205-19 Collection of rents.

No property owner, agent or person in charge shall collect rents during any period of noncompliance with this chapter which would otherwise be due and owing for the rental of premises unless and until the property owner shall have complied with the provisions herein. Nothing herein shall be construed to prevent a property owner, upon receipt of the rental registry certificate, from receiving the equitable value of the occupancy of the premises from the earliest date of occupancy, but in no event shall a property owner recover in excess of the agreed rent. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises from the earliest date of occupancy until the property owner's receipt of the rental registry certificate may not be used as a basis for eviction.

Article IV Fees and Penalties.

205-20 Application fees.

An application fee shall be paid for each rental property that the owner(s) wishes to register, renew or have the certificate transferred. The fee shall be submitted with the rental registry application renewal or transfer forms provided by the Building Department. The amount of the fee shall be in the annual fee schedule approved by the Board of Trustees.

205-21 Penalties for offenses.

- A. **Any person or entity that violates any of the provisions of this chapter 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 \$3,500 and not exceeding \$5,000 upon conviction of a first offense, or a sentence of imprisonment not to exceed 15 days, or both.**
 2. **A fine of not less than \$7,000 nor more than \$10,000 upon the conviction of a second offense, committed within a period of thirty-six months of the date of the initial violation, or a sentence of imprisonment not to exceed 15 days, or both.**
 3. **A fine of not less than \$10,000 nor more than \$15,000 for a conviction for a third and subsequent offenses, committed within a period of sixty months of the date of the initial violation, or a sentence of imprisonment not to exceed 15 days, or both.**
- 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. **Loss of profit. Where a property owner has gained a profit through the violation of any provision of this chapter, then the court, in lieu of imposing the penalties authorized under Subsection A of this section, may sentence the property owner to pay an amount, fixed by the court, not exceeding double the amount of the property owner's gain from the violation. The court shall make a finding after a hearing as to the amount of profit gained by the property owner's conduct.**
1. **If the property owner fails to provide rental information for the private dwellings, the court may find as the fair market rent to be 110% of the small area fair market rent (SAFMR) for Ossining as published annually by the Department of Housing and Urban Development at <https://www.huduser.gov/portal/datasets/final/smallarea/index.html#final-rulemaking>.**
- D. **Civil penalties. In addition to the penalties prescribed in this section, where the property owner is found to have violated this chapter, the property owner shall be liable to pay a civil penalty of not more than \$2,000 for each week or part thereof during which the violation continues. The civil penalties awarded shall be recoverable in an action brought by the village. In such proceeding the village shall be awarded interest, costs and disbursements including reasonable attorneys' fees.**

Section 2. Effective date.

This local law shall be effective ninety (90) days after filing with the Secretary of State pursuant to section 27 of the Municipal Home Rule Law.