

RESOLUTION ADOPTING A LOCAL LAW AMENDING VILLAGE CODE Part II, Chapter 215, §215-1, 2, and 3, and Part II, Chapter 300, Article II, §300-2.2, and Article XI, Chapter 300, §300-11.8 TO ALLOW THE SHORT-TERM RENTAL OF ROOMS IN OWNER-OCCUPIED RESIDENCES

WHEREAS, currently, Village Code prohibits the rental of rooms within a single family residence even if that residence is owner-occupied during that rental period and this Board has heard that such regulation has put an undue burden on the people of the Village of Sag Harbor; and

WHEREAS, these proposed changes to the rental registry law will necessarily require amendments to the existing bed-and-breakfast definition and regulations in the Village Code; and

WHEREAS, in furtherance of this goal, the Board of Trustees is considering enacting a local law amending Village Code Part II, Chapter 215, §§215-1, 215-2, 215-3, and Part II, Chapter 300, Article II, §300-2.2, and Article XI, Chapter 300, §300-11.8 to allow the short-term rental of rooms in owner-occupied single family residential dwellings; and

WHEREAS, public hearings were held on this local law on June 11, 2024 and July 9, 2024 where all persons for or against this proposed local law were heard; and

WHEREAS, the Suffolk County Planning Commission determined by letter dated July 9, 2024, that the proposed local law was a matter for local determination; and

WHEREAS, the Village of Sag Harbor and the Village of Sag Harbor Planning Consultant, Nelson Pope & Voorhis determined that the proposed action is Type I Action and reviewed the Environmental Assessment Forms to consider the potential environmental impacts of this proposed local law; and now therefore be it,

RESOLVED, that upon review of the Environmental Assessment Forms with Nelson Pope and Voorhis, the Village Board of Trustees hereby adopts a Negative Declaration in connection with this local law, finding that adopting this local law will not result in a significant adverse environmental impact; and be it further,

RESOLVED, that the following local law is hereby adopted:

LOCAL LAW NO. 8 OF 2024

Be it enacted by the Village Board of Trustees of the Village of Sag Harbor as follows:

A LOCAL LAW to amend Village Code Part II, Chapter 215, §§215-1, 215-2, 215-3, , and Part II, Chapter 300, Article II, §300-2.2, and Chapter 300, Article XI, §300-11.8 to allow the short

term rental of rooms in owner-occupied single family residences to allow the short-term rental of rooms in owner-occupied, single family residential dwellings.

SECTION 1. Amendment. Please see the following and amend Village Code Part II, Chapter 215, §215-1, §215-2 and §215-3 by deleting those words that are stricken and adding those words that are underlined:

§ 215-1 **Rental registry; definitions.**

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

DWELLING UNIT

As defined in § 300-2.2.

ENFORCEMENT AUTHORITY

The Senior Building Inspector or his designee or the Fire Marshal or his designee.

FAMILY

As defined in § 300-2.2.

IMMEDIATE FAMILY

The owners spouse, partner, children, parents, siblings, grandparents, grandchildren, or those under legal guardianship.

MANAGING AGENT

Any person, individual, business, partnership, firm, corporation, enterprise, trust, trustee, company, industry, association, public entity, attorney, real estate broker, real estate agent, or other legal entity responsible for the maintenance of, collection of rent, establishment of utilities accounts, or operation of any rental property as defined within this chapter.

OWNER

Any person, individual, association, partnership, 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. In addition, any sole and/or joint owners who do not appear on the deed of record as recorded with the Suffolk County Clerk who hold legal title to any premises, with or without actual possession thereof by means of possession of shares, as executor, as administrator, as trustee, as guardian of estates, or as a mortgagee in possession, with title, or demonstrating control over a dwelling unit. This shall include but not be limited to banks and lending institutions, regardless of how possession or title has been obtained.

PERSON

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

RENEWAL RENTAL REGISTRY

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 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, apartments, condominiums, residential cooperatives rented by someone other than the shareholder/s, and townhouses. Rental property shall also mean owner-occupied single family residences and owner-occupied two family residences where the owner is renting 1-3 bedrooms in the residence, 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.

RENTAL REGISTRY

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

SEASONAL RENTAL

An agreement, oral or in writing, whereby a dwelling is leased, used or occupied by an individual or a family for a period permitted by this code, and for which compensation, cash or otherwise, is paid for, directly or indirectly. Any dwelling unit rented for more than 120 days in any calendar year does not qualify as a seasonal rental.

TENANT

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

~~TRANSIENT RENTAL~~ SHORT-TERM RENTAL

A rental period of 14 days or less.

§ 215-2 **Rental registry required.**

A.

It shall be unlawful and a violation of this chapter for any person or entity who or which owns a dwelling unit in the Village to use, establish, maintain, operate, let, lease, rent or suffer or permit or allow the occupancy and use thereof as a rental occupancy by someone other than the owner

without first having obtained a valid rental occupancy permit therefor. Failure or refusal to procure a rental occupancy permit hereunder shall be deemed a violation.

B.

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

C.

No owner, person, managing agent, or designee shall collect rent for the occupancy or use of a dwelling unit as a rental property without a valid rental permit.

D.

No rental permit shall be granted to a ~~transient~~ non-owner-occupied short-term rental property.

E.

No dwelling shall be occupied as a seasonal rental unless registered with the Building Department as a seasonal rental unit.

§ 215-3 Rental registry application.

A.

Where a dwelling unit is to be used as a rental property, or seasonal rental, an application for a rental registry shall be filed with the Building Department before the term of the rental is to commence.

B.

The application shall be signed by each and every owner of the rental property and shall contain the following:

(1)

The name and legal address and, if different, mailing address of the owner or owners.

(2)

The location of the seasonal rental, including the Suffolk County Tax Map parcel number.

(3)

A copy of the most recent deed and property tax bill, confirming the ownership of record of the rental property.

(4)

A true, final and complete signed copy of the lease between the owner(s) and tenant(s).

(5)

A completed and notarized rental property inspection checklist, in a form approved by the Village Building Department, sworn to by the property owner or a licensed architect, licensed engineer or licensed home inspector.

C.

A dwelling utilized as a rental property or seasonal rental shall be leased only by an individual or a family in accordance with this chapter. In no event shall a seasonal rental be for a period less than 30 consecutive days, excepting within any calendar year rentals of two weeks not more than twice is permitted. Where there is to be a change in the individual tenants who will be leasing, occupying or using the dwelling, the registry application shall be amended to indicate the name of the new tenant before the new tenant may occupy the dwelling.

D.

The selling of shares to tenants where they obtain the rights of use and occupancy in a rental property dwelling for less than the term of the rental shall be prohibited. The rent or compensation paid for a seasonal rental shall not be shared by more than the permitted number of tenants.

E.

The leasing, use or occupancy by a tenant of less than the entire dwelling ~~is prohibited in an owner-occupied residence shall be limited to a maximum of 50 rental registry permits being issued in the Village and shall require the property owner to submit an owner-occupied rental registry permit application that shall contain the following:~~

(1)

The name and legal address and, if different, mailing address of the owner or owners.

(2)

The location of the seasonal rental, including the Suffolk County Tax Map parcel number.

(3)

A copy of the most recent deed and property tax bill, confirming the ownership of record of the rental property.

(4)

A completed and notarized rental property inspection checklist, in a form approved by the Village Building Department, sworn to by the property owner or a licensed architect, licensed engineer or licensed home inspector.

F.

All applicable parking regulations provided for in this code shall be complied with.

§215-4 Notice of violation.

Upon service of a notice of violation to a tenant for a violation of this chapter, notice of such service of a notice of violation shall be given by the Building Department to each owner and lessor of the rental property. Said notice shall be sent by certified mail to each owner at the owner's address as shown on the current Village of Sag Harbor assessment rolls and lessor at the

mailing address set forth in the registry application. Notice shall be deemed complete upon the execution of an affidavit of mailing by the Building Department.

§ 215-5 Penalties for offenses.

Where authorized by a duly adopted resolution of the Village Board, the Village Attorney shall bring and maintain a civil proceeding, in the name of the Village, to permanently enjoin the person or persons conducting, maintaining or permitting said violation. Each owner and lessor of the dwelling wherein the violation is conducted, maintained or permitted shall be made a defendant in the action, and each tenant of such dwelling may be joined as defendants in the action.

A.

Each person who is listed as an owner upon the rental permit application shall be presumed to be an owner thereof.

B.

If, in an action under this chapter or upon a motion for default judgment or summary judgment in an action under this chapter, a finding is made that the defendants or any of them has conducted, maintained or permitted a violation of this chapter, a penalty to be 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 defendant or any one of them conducted, maintained or permitted the violation.

C.

In addition to the foregoing provisions, any duly authorized police officer, peace officer, fire marshal, ordinance inspector or building inspector may issue a summons for violation(s) of this chapter. Upon a finding of a violation of the provisions of this chapter, judgment entered pursuant to this chapter may be at the discretion of the court in an amount of up to \$1,000 for each day the violation has been conducted, maintained or permitted. Upon recovery, such penalty shall be paid into the general funds of the Village.

SECTION 2. Amendment. Please see the following and amend Village Code Part II, Chapter 300, Article II, §300-2.2, Definitions, by deleting those words that are stricken and adding those words that are underlined:

§ 300-2.2 Definitions

BED-AND-BREAKFAST

An owner-occupied residence, resulting from the conversion of a single-family residence, used for providing overnight accommodations and a morning meal to ~~not more than~~ four or more bedrooms for such lodgers. Nothing herein shall prevent an owner-occupied residence renting less than four rooms from applying for a bed-and-breakfast special exception permit under Village Code §300-11.8, if that applicant chooses.

[Amended 6-9-2015 by L.L. No. 10-2015]

TRANSIENT

Daily or weekly.

SECTION 3. Amendment. Please see the following and amend Village Code Part II, Chapter 300, Article XI, §300-11.8 by deleting those words that are stricken and adding those words that are underlined:

§ 300-11.8 **Bed-and-breakfast.**

[Amended 6-9-2015 by L.L. No. 10-2015]

A.

A bed-and-breakfast is an owner-occupied dwelling designed, used and occupied as a one-family or two-family dwelling, managed by the property's owner and having as an accessory bedroom accommodations and breakfast provisions, served in the host's private dining room or kitchen, for those accommodated as paying guests, who are referred to for the purposes of this section as "registered guests."

B.

No dwelling or building shall be used as a bed-and-breakfast unless:

(1)

It is in compliance with the requirements of this section and all other provisions of this chapter.

(2)

A special exception permit has been issued for a bed-and-breakfast under this section by the Planning Board permitting the bed-and-breakfast.

C.

~~No bed and breakfast shall have more than two bedrooms to accommodate more than four transient guests, and occupancy of any guest shall be limited to three nights and three days.~~

D.

Any special exception permit issued hereunder shall expire two years after issuance, and any renewal shall be submitted to a public hearing.

E.

The dwelling shall be a detached one-family or two-family dwelling with a certificate of occupancy for such use.

F.

The dwelling shall be occupied as a principal residence by its owners during any period of time in which it is also being used and occupied as a bed-and-breakfast.

G.

There shall be no separate kitchen facilities for the use of registered guests.

H.

At least one off-street parking space shall be provided for each guest bedroom.

I.

No meal may be served or provided in any manner except breakfast to registered guests.

J.

No special exception approval shall be issued except after the Planning Board's receipt and consideration of written inspection reports from both the Fire Marshal and Building Inspector, each stating that the premises are safe for bed-and-breakfast use, and no such special exception shall be approved except with a condition authorizing continued inspections as need arises by both the Fire Marshal and Building Inspector. Such inspections may be made at any reasonable time. If entrance to make an inspection is refused or cannot be obtained, the Building Inspector or Fire Marshal of the Village of Sag Harbor may apply to any court of competent jurisdiction for a warrant to make an inspection.

K.

Each floor and each guest bedroom shall be equipped with a working smoke alarm and carbon monoxide detector.

L.

Any sign at the premises shall be limited to a sign no greater than two square feet.

M.

In no event may the Board approve or allow more than 10 special exception permits for a bed-and-breakfast in the R-20 District at any one time.

SECTION 3. Authority.

The Village of Sag Harbor hereby enacts this legislation pursuant to New York State Village Law Article 7.

SECTION 4. Severability.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this local law but shall be confined in its operation to the clause, sentence, paragraph, section or part of this local law that shall be directly involved in the controversy in which such judgment shall be rendered.

SECTION 5. Effective Date.

This chapter shall take effect immediately upon filing in the office of the Secretary of State pursuant to the Municipal Home Rule Law.