

INTRODUCTORY LOCAL LAW No.1 OF 2018

A LOCAL LAW ENACTING A NEW CHAPTER 95 OF THE CODE OF THE VILLAGE OF MONTGOMERY ENTITLED "SHORT-TERM RENTAL PROPERTIES" TO ESTABLISH REGULATIONS AND PROVIDE FOR THE ADMINISTRATION OF SHORT-TERM RENTALS OF RESIDENTIAL PROPERTIES WITHIN THE VILLAGE.

BE IT ENACTED by the Board of Trustees of the Village of Montgomery, New York as follows:

SECTION 1. The Code of the Village of Montgomery is hereby amended by enacting a new Chapter 99 entitled "Short-Term Rental Properties" as follows:

CHAPTER 95

SHORT-TERM RENTAL PROPERTIES

§95-1. Legislative intent.

The Board of Trustees of the Village of Montgomery has determined that it is necessary, given the popularity of such online phenomena as AirBnB, VBRO and other such sites whereby owners of residential properties rent out all or parts of their properties on a short-term basis, to enact reasonable regulations to ensure that the public health, safety, well-being and quality of life of Village residents is preserved while also ensuring that the health, safety and well-being of those persons renting such properties are also protected.

The Board of Trustees, therefore, establishes regulations for the administration and enforcement of a residential rental permit requirement for all short-term rental units within the corporate boundaries of the Village of Montgomery. Additionally, this local law provides for the periodic registration of all landlords and short-term residential rental property owners for the purpose of regulating the living and safety conditions of such short-term residential rental properties and for maintaining an inventory of available short-term rental housing.

§95-2. Definitions.

For the purposes of this Chapter, the following definitions shall apply:

ABSENTEE LANDLORD - Means any landlord who does not reside on the rental property and/or who resides outside the designated boundaries of Orange County as those boundaries may be defined at the time of regular, periodic property registration.

BUILDING INSPECTOR - Means the duly appointed Building Inspector/Code Enforcement Officer of the Village of Montgomery authorized to enforce Chapter 42, Building Construction, Chapter 44, Buildings, Unsafe and this Chapter.

HOUSING OR DWELLING UNIT- Means any single residential living space which is capable of housing one separate household, whether a detached single-family structure or building or part of a multi-household structure or building.

IMMEDIATE FAMILY - Means the "immediate family" of the owner of a housing unit consisting of the owner's spouse, children, parents, grandparents or grandchildren.

LANDLORD - Means any property owner or designated agent who offers a housing unit for occupancy to persons other than members of his immediate family in exchange for a fee or compensation, whether monetary or otherwise.

RESIDENT AGENT - Means a representative of a property owner or landlord who resides within the designated boundaries of Orange County as defined at the time of periodic property registration. All Resident Agents must be natural persons and not corporations, limited liability companies or other similar entities.

SHORT-TERM RENTAL PERMIT - Means a permit issued by the Village of Montgomery stating that the referenced structure or unit conforms to the standards of Chapter 42, Building Construction, and that occupancy of that structure or unit is permitted for residential use. Any special circumstances or conditions under which occupancy is permitted may be specified on that permit.

SHORT-TERM RENTAL PROPERTY - Means any housing or dwelling unit(s) which are occupied by persons other than the owner or his immediate family for which a fee or compensation, monetary or otherwise, is received by the owner or landlord in exchange for such occupancy for a period of less than thirty (30) days, which shall include but not be limited to rentals provided by such companies as AirBnB and VBRO. Month to month tenancies are not considered Short-Term Rental Properties.

SUBSTANDARD- Means any deficiency in a structure or housing unit that does not meet the standards of Chapter 42, Building Construction, as amended.

§95-3. Property Registration and Permit Requirement.

- A. All Landlord and Resident Agents must register and obtain a Short-Term Rental permit from the Village of Montgomery within thirty (30) days of the effective date of this Chapter and/or before any housing or dwelling unit is utilized as a Short-Term Rental Property. Initial registration will begin within thirty (30) days after this Chapter becomes effective. It is the responsibility of the Landlord or Resident Agent to register any Short-Term Rental Property as required in this Chapter and failure to do so shall constitute a violation of these regulations and is subject to the penalties set forth herein. All Absentee Landlords must have a Resident Agent for all Short-Term Rental Properties. Any substandard condition identified during an annual inspection must be corrected by the Landlord before a Short-Term Rental Permit shall be issued.
- B. The registration for a Short-Term rental Permit shall be on a form approved by the Building Inspector in accordance with the provisions of this Chapter and must contain a minimum of the following information:
- 1) Address of the rental unit;
 - 2) The number of rental units in each building;
 - 3) The number of conventional bedrooms in the dwelling;
 - 4) The applicable overnight and daytime occupancy limit of the unit(s);
 - 5) The number of off-street parking spaces available for guests;
 - 6) The types and placement of any fire protection systems located in each building;
 - 7) The number and location of all exits;
 - 8) A floor plan indicating the placement and sizes of each conventional bedroom, exit and fire protection system;
 - 9) A listing of each manner or mechanism through which the rental unit is listed for rental;
 - 10) A copy of a valid certificate of occupancy for the real property;
 - 11) Written proof of liability insurance for the property with policy limits in an amount of no less than \$1 million;
 - 12) Name, mailing address, physical address telephone number, e-mail address and social security number of the Landlord or Resident Agent;
 - 13) If the owner is an association, partnership, limited liability company, corporation, joint tenancy, tenancy

in common, tenancy by the entirety or other entity, the name of each and every owner, officer, partner or general interest partner and the share of their interest shall be also disclosed;

- 14) If the owner is a business entity, the tax identification number and the name, telephone number, e-mail address and physical address of the owner's agent;
- 15) Acknowledgment of receipt of a copy of this Chapter and inspection report;
- 16) The fully completed form must be notarized.

- C. All Resident Agents shall accept service of process on behalf of the Landlord of all notices given pursuant to this Chapter. If a resident Agent moves from Orange County, the Landlord must immediately designate a new Resident Agent in writing to the Village for the duration of the period of any Short-Term Rental Permit and the failure to do so shall render the Permit null and void.
- D. Leaseholders and tenants may not engage in short term rentals.
- E. All Short-Term Rental permits shall expire one year after the date of issuance unless sooner revoked.

§95-4. Application for Renewal of Permit.

- A. Application for renewal of the Short-Term Rental Permit is due thirty (30) days prior to its expiration and requires payment of the renewal fee.
- B. At the time of application for renewal, the Landlord and/or resident Agent, if applicable, must present the expiring permit.
- C. The renewal shall only be issued after re-inspection of the subject premises by the Building Inspector pursuant to §95-5 of this Chapter and any reported violations must be remedied prior to the renewal of a Short-term Rental Permit.

§95-5. Inspections for Short-term Rental Units.

- A. Inspections of all Short-Term Rental Properties shall be conducted on an annual basis to determine compliance with Chapter 42 Building Construction, as amended.
- B. All inspections finding substandard conditions will be subject to procedures set forth for violation of Chapter 44, Buildings, Unsafe, as amended.
- C. Inspections shall be conducted and work descriptions shall be compiled and issued by the Building Inspector.

- D. The Building Inspector will be responsible for arranging for the inspection of short-term rental units and for initiating any other appropriate action under these regulations. The Building Inspector will give special consideration to any request that inspections be conducted during non-business hours for the convenience of the renter(s). In the absence of such a request, the inspections will be conducted during normal business hours as defined by the Village's business hours in force at the time.
- E. The annual inspection fee is \$50 for each Short-Term Rental Property. If the Short-Term Rental Property fails inspection, there shall be no fee for the first re-inspection. Thereafter, each further re-inspections shall be subject to a fee of \$25.

§95-6. Fees for Permits.

- A. An application fee for the Short-Term Rental Permit shall be in an amount established, from time to time, by resolution of the Board of Trustees and is payable by the property owner at the time of application.
- B. A fee for the renewal of a Short-Term Rental Permit shall be in an amount established, from time to time, by resolution of the Board of Trustees and is payable by the property owner at the time of application for the renewal.

§95-7. Grounds for Denial of Application for Permit or Renewal Permit.

The Building Inspector may deny an application for a Short-Term Rental Permit based upon, among others any of the following grounds:

- A. The application does not fully comply with the provisions of this Chapter.
- B. The applicant has falsified or failed to provide information in the application for a permit, registration of property or registration of property owner.
- C. The applicant had been issued a Short-Term Rental Permit, which was in effect in any part of the calendar year immediately preceding the date of application and the applicant falsified or failed to provide information in the application for a permit, registration of property or registration of property owner, upon which such Short-Term Rental Permit had been issued.
- D. The applicant violated any provision of this Chapter during the calendar year immediately preceding the date of

application or during the calendar year in which the application was made.

- E. The applicant has had a Short-Term Rental Permit revoked for cause during the calendar year immediately preceding the date of application or during the calendar year in which the application was made.
- F. The property for which a Short-Term Rental Permit is sought was used or occupied in violation of this Chapter during the calendar year immediately preceding the date of application or during the calendar year in which the application was made.
- G. The property for which a Short-Term Rental Permit is sought is not equipped with an operational single-station smoke-detecting alarm device and an operational carbon monoxide detector device, or devices, in accordance with New York State standards.
- H. The property for which a Short-Term Rental Permit is sought does not possess adequate exits in accordance with New York State standards.

§95-8. Grounds for Revocation of Permit.

The Building Inspector may revoke a Short-Term Rental Permit based upon, among others, any of the following grounds:

- A. The owner applicant has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of property or registration of property owner.
- B. The applicant violated any provisions of this Chapter during the term of the Short-Term Rental Permit.
- C. The applicant or any renter violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of, the short-term rental unit.
- D. The applicant or any renter violated any provision of the Village of Montgomery.
- E. Any conduct on the premises which is unreasonable under the circumstances and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.
- F. The property for which renewal of a Short-Term Rental Permit is sought is not equipped with an operational single-station smoke-detecting alarm device and an operational carbon monoxide detector device, or devices, in accordance with New York State standards.

G. The property for which renewal of a Short-Term Rental Permit is sought does not possess adequate exits in accordance with New York State standards.

§95-9. Restrictions on Use and Occupancy Pursuant to Short-Term Rental Permits.

- A. It is the responsibility of the property owner, landlord and/or resident agent to ensure proper and legal occupation of the premises and compliance with this Chapter.
- B. The premises for which a Short-Term Rental Permit has been granted can only be used for residential purposes.
- C. No more than three adult persons may occupy any one bedroom.
- D. A renter in possession pursuant to a Short-Term Rental Permit is prohibited from subleasing or otherwise licensing the use or occupancy of any portion of the rental unit.
- E. Advertising for the subleasing of or selling or assigning of shares to the premises by a renter or occupant for the use or occupancy of all or a portion of the premises is prohibited.
- F. All renter shall ensure that at no time shall ingress or egress from any driveway be impeded.
- G. The renters of short-term rental premises and their guests shall not park any motor vehicle in such a manner so as to block or prevent access to driveways or easements or rights-of-way.
- H. Any conduct on the premises which is unreasonable under the circumstances and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance is prohibited.
- I. Trash, refuse and recycling materials shall not be left stored within the public view, except in proper containers for the purpose of collection by the Village, set out no earlier than 5:00 p.m. on the evening prior to scheduled trash and recycling collection days and shall otherwise comply with Chapter 65 of the Village Code.

§95-10. No Presumption of Compliance.

The issuance of a Short-Term Rental Permit shall create no presumption that the short-term rental unit complies with the provisions of this Chapter.

§95-11. Evidence of Use and Occupancy.

The parking of motor vehicles between the hours of 1:00 a.m. and 6:00 a.m. on the premises for which a Short-Term Rental Permit has been issued shall be prima facie evidence that the rental unit was used and occupied during that time by at least one person for each motor vehicle so parked.

§95-12. Nontransferability.

A Short-Term Rental Permit shall not be transferred or assigned to any person or used by any other person other than the permittee to whom it was issued.

§95-13. Appeals.

- A. The Building Inspector may deny an application for a Short-Term Rental Permit, deny an application for renewal of a Short-Term Rental Permit or may revoke a Short-Term Rental Permit, by delivering a written copy of such denial or revocation to the applicant stating the grounds for such denial or revocation.
- B. An applicant or permittee, as applicable, may appeal such denial or revocation by filing a written request for a hearing before the Board of Trustees. Such request shall be filed with the Village Clerk within 10 days of the date of the denial or revocation.
- C. Upon receipt of such request, the Village Clerk shall schedule the same for the next regularly scheduled Board of Trustees meeting, affording the appellant at least five (5) days written notice of the date, time and place of the hearing and publish notice of the same.
- D. At the hearing, the appellant shall be afforded reasonable opportunity to be heard. The appellant shall bear the burden of proof by a preponderance of the credible evidence to show that the determination of the Building Inspector was arbitrary and capricious or in excess of his/her authority. The decision of the Board of Trustees shall be final and conclusive.

§95-14. Penalties for Offenses.

- A. Any person who violates any term or provision of this Chapter, upon conviction thereof, shall be guilty of an offense punishable by a fine as contained in Paragraph B of this section, or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense shall constitute, for each day the offense is committed, a separate and distinct violation hereunder.

B. Penalties for violations of these regulations shall be imposed as follows:

- (1) **Failure to register as a Landlord or Resident Agent:**
 - (a) **First Offense: \$500 per day**
 - (b) **Subsequent Offenses: \$1,000 per day**
- (2) **Allowing occupancy without a valid permit or with revoked permit:**
 - (a) **First Offense: \$500 per day per unit**
 - (b) **Subsequent Offenses: \$1,000 per day per unit.**

SECTION 2. Savings Clause.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 3. Effective date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in Albany in accordance with section 27 of the Municipal Home Rule Law.

