

Bill VOG 05-24.

A local law amending and restating Chapter 103 of the Code of the Village of Greenport, to modify the regulation of rental properties.

Section 1. Chapter 103 is amended and restated as follows:

“Chapter 103. Rental Properties

§103-1. Legislative Intent.

The Board of Trustees of the Village of Greenport hereby finds that it is in the public interest to prevent unsafe conditions arising from the rental of residential property that is in violation of the New York State Uniform Fire Prevention and Building Code or the Greenport Village Code, and any other codes or regulations that are applicable within the Village of Greenport, and property used for rental that is inadequate in size, overcrowded and dangerous; or which pose hazards to life, limb and property of residents of the Village of Greenport or that tend to promote and encourage deterioration of the housing stock of the Village of Greenport; create blight, excessive vehicle traffic and parking problems; and overburden municipal services. The Board of Trustees further finds that additional Code provisions are required to halt the proliferation of such conditions and that the public health, safety, welfare and good order governance of the Village of Greenport will be enhanced by enactment of the regulations set forth in this chapter.

§103-2. Applicability.

This chapter shall apply to all rentals of property for residential use in the Village of Greenport. Any property shall be presumed to be rented if said premises are not occupied by the legal owner thereof.

§103-3. Relation to other laws and regulations.

The provisions of this chapter shall be deemed to supplement applicable state and local laws, codes and regulations. Nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies or existing requirements of any other provision of state or local law or code or regulation. The issuance of any permit or the filing of any form under this chapter does not make legal any action or state of facts that is otherwise illegal, unlawful or nonpermitted, or is otherwise in contravention of any other applicable law, code, rule or regulation.

§103-4. Definitions.

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

CONVENTIONAL BEDROOM

A room designed as a bedroom or, as in the case of a studio apartment, a common room used for sleeping purposes. Rooms having other purposes, such as dens, kitchens, living rooms or hallways, are not to be interpreted or used as conventional bedrooms. A room that is not a conventional bedroom may not be converted to or used as a conventional bedroom without the prior approval of the Village of Greenport.

DWELLING UNIT

A building or entirely self-contained portion thereof containing complete housekeeping facilities, and having no enclosed space (other than vestibules, entranceways, or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit and which contains at least and not more than one kitchen.

KITCHEN

Any assembly of cabinets, appliances, countertops or plumbing used in connection with the storage, preparation or cooking of food.

LONG TERM OCCUPANCY

Occupancy by a written lease with a term of at least one year.

NONCONFORMING BUILDING OR USE

A building or use that does not conform to the applicable building, zoning or other relevant regulations of the district in which it is situated.

NONHABITABLE SPACE

Space used as kitchenettes, pantries, bath, toilet, laundry, rest, dressing, locker, storage, utility, heater, boiler and recreation rooms, closets and other space for service and maintenance of the building, and those spaces used for access and vertical travel between stories and specifically excluding any rooms used for sleeping, eating and cooking, other than kitchenettes. The presence of a bed or bed frame, crib or other sleeping provisions in a room is presumptive evidence that the room is being used for sleeping purposes. Nonhabitable space shall not be used for sleeping purposes.

OWNER

Any person, partnership, corporation or other entity who alone, or jointly with others, has legal title to any premises, including a mortgagee in possession or with maintenance responsibility due to a foreclosure or other proceeding. The general partner of a partnership, director of a corporation and member of a limited liability company shall be deemed to be an owner for purposes of this chapter. If the operating agreement or other document governing the limited liability company or partnership provides that a member or partner has an interest in the company or partnership only for the period of occupancy or use of a premises, that member is not an owner.

RENEWAL RENTAL PERMIT

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.

RENTAL

Occupancy or use of premises by a person who is not an owner or a family member of owner. A family member is a person who is related by blood or marriage to the owner.

RENTAL PERMIT

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

RENTAL UNIT

A dwelling unit or portion of a property which is occupied for habitation by a person or persons, other than the owner or the owner's immediate family.

RESIDENTIAL PROPERTY

Property which is zoned for residential use or that portion of a mixed-use property which is a residential use.

SHORT-TERM RENTAL

Commencing on January 1, 2025, the rental of residential property or a portion thereof for a term of less than 30 days, in exchange for money, commodities, services, barter or other forms of compensation. Hotels, motels and bed-and-breakfast

establishments that have been approved by the Village of Greenport in accordance with Chapter 150 are not considered short term rentals.

§103-5. Confidential information maintained by owner.

The owner shall maintain a confidential record of the names and telephone numbers of the tenants.

§103-6. Rental permit required.

No owner shall cause, permit or allow the occupancy or use of any portion of a rental property as a rental unit without a valid rental permit and no person shall occupy or otherwise use a dwelling unit or any part thereof as a rental unit without a valid rental permit being issued for the rental unit. A rental permit issued under this chapter shall only be issued to the owner(s) of the real property at issue. Any person or entity acting as an owner or an owner's representative or a person with authority to permit use or occupancy of a premises who permits a premises or portion thereof to be used as a rental unit shall be guilty of a violation of this chapter.

§103-6-A. Short-Term Rental

Notwithstanding any other provision of this chapter or the Village Code, short-term rentals are prohibited in the Village. Any person or entity acting as an owner or an owner's representative or a person with authority to permit use or occupancy of a premises who permits a premises or portion thereof to be used as a short-term rental unit shall be guilty of a violation of this chapter.

§103-7. Application for rental permit.

An application for a rental permit required by this chapter shall be made in writing to the Building Inspector, on a form provided therefor by the Village, shall contain at least the following information, and shall be accompanied by payment of a fee in an amount determined from time to time by resolution of the Board of Trustees:

- A. the name and address of the applicant and, if different, the name and address of the owner of the premises where the rental unit is located;
- B. the number of dwelling units at the premises, and the number and identification of such units and bedrooms proposed to be occupied as a rental unit;

C. documentation that a valid certificate of occupancy exists with respect to each such rental unit, or that no certificate of occupancy is required to permit such rental unit to be used for residential purposes;

D. the name, address and telephone number of a contact person to be contacted in event of emergency at the premises;

E. whether there are any open building permits for the premises where such rental unit is located other than permits for active construction;

F. verification of an inspection by the Village of Greenport or a written certification from a licensed architect or licensed engineer that states that the rental unit fully complies with all applicable provisions of the New York State Uniform Fire Prevention and Building Code, chapter 150 of this code, and any other applicable codes and regulations, which certification shall not have been completed more than 30 days prior to the date of the application for a rental permit, and a floor plan of the rental unit;

G. the signature of the owner of the premises and, if the owner is not the applicant, the signature of the applicant, attesting to the accuracy of the information contained in the application;

H. copy of the deed for the premises;

I. if the owner is a limited liability company or partnership, copy of the operating agreement; and

J. such other information as may reasonably be required by the Building Inspector to determine whether the rental unit(s) may be registered, and a permit issued, pursuant to this chapter; and

§103-8. Review of application: issuance of rental permit.

The Building Inspector or another person designated by the Board of Trustees shall review each application for completeness and accuracy and shall issue a rental permit when the application is complete and fee paid.

§103-9. Term of permit; renewal.

A. All permits issued pursuant to this chapter shall have a term of two years

B. An application for the renewal of a rental permit shall be signed by the owner and shall be completed and filed with the Building Inspector not later than 30 days prior

to the expiration of any valid rental permit. The application for a renewal of the rental permit shall contain an official copy of the prior valid rental permit and either a signed and sworn affidavit by the owner affirming that the rental property, to the best of his/her knowledge, fully complies with all of the provisions of the New York State Uniform Fire Prevention and Building Code, and Greenport Village Code, that the structure has not been physically altered in any way, except in full conformance with a valid building permit, and the owner is not aware of the property being in violation of the New York State Uniform Fire Prevention and Building Code, and the Greenport Village Code; or an inspection by the Building Inspector of the Village of Greenport.

§103-10. Register of permits.

It shall be the duty of the Building Inspector to maintain a register of the owner name and address, number of rooms in the premises, and expiration date of permits issued pursuant to this chapter.

§103-11. Fees.

The biennial permit fee for a rental permit or a renewal rental permit, including the fee for an owner of a rental property found by any court of competent jurisdiction to have violated this chapter within a two-year period preceding the date of the commencement of the renewal period, shall be in an amount as determined from time to time by resolution of the Board of Trustees.

§103-12. Regulations.

A. No rental unit shall be occupied by more than the number of persons permitted to occupy the rental property under the New York State Uniform Fire Prevention and Building Code and International Codes and the other codes and regulations of the State of New York.

B. No more than two bedrooms shall be permitted in the basement of a rental property.

C. The selling of shares to subtenants where they obtain rights for use and/or occupancy in a dwelling shall be prohibited.

D. The leasing, subleasing, occupancy or use by a tenant of less than the entire rental property or rental unit is prohibited.

E. The owner(s) and tenant(s) shall ensure that all applicable parking regulations provided for in the Greenport Village Code are satisfied.

F. A rental unit shall only be occupied or otherwise utilized in accordance with the certificate of occupancy issued for the rental unit.

G. The owner(s) and tenant(s) shall ensure that all property maintenance regulations provided for in the New York State Uniform Fire Prevention and Building Code and the United States Department of Housing and Urban Development Section 8 Housing Quality Standard Inspection Checklist standards are satisfied as may be applicable.

H. Dumpsters are prohibited on residential property for anything other than incidental short-term use.

I. A rental permit number shall be issued for each rental permit that is granted by the Village and the rental permit number shall be displayed on all advertisements of the rental unit to which the rental permit number corresponds.

§103-13. Inspections.

The Building Inspector and Village personnel or agents for the Village who are engaged in the enforcement of the provisions of this chapter, the New York State Uniform Fire Prevention and Building Codes and the Greenport Village Code, are authorized to make or cause to be made inspections to determine the condition of rental properties to safeguard the health, safety, and welfare of the public.

§103-14. Revocation of permit.

A. The Building Inspector shall revoke a rental permit when the permit holder has caused, permitted or allowed to exist and remain upon the rental unit a violation of any provision of the New York State Uniform Fire Prevention and Building Code, or the Greenport Village Code, for a period of 14 calendar days or more after written notice has been provided to the permit holder, owner, managing agent, or tenant of the rental property by mail, certified mail, or hand delivery.

B. An appeal from such revocation may be made in writing by the permit holder to the Board of Trustees within 30 days from the date of such revocation. The Village Board of Trustees shall hold a public hearing on such appeal within 30 days after receipt of written notice of such appeal and, after such hearing, shall make written findings and

a decision either sustaining such permit revocation or reinstating such permit within 30 days after close of such public hearing.

§103-14-A. Presumptions.

The presence or existence of any of the following factors shall create a rebuttable presumption that a premises is rented as a rental unit:

1. the dwelling unit is occupied by someone other than the owner or a member of the owner's family, and the owner of the property represents, in writing or otherwise, to any person or entity that such owner resides at an address other than the rental property when the rental property is being used for rental purposes;

2. one or more persons residing in the dwelling unit represents that such person, or one or more other persons, pay rent to the owner of the premises;

3. utilities, cable television, phone or other services are in place or requested to be installed or used at the premises in the name of someone other than the record owner;

4. a sworn statement or testimony by a person having knowledge of the facts that it is common knowledge in the community that a person other than the record owner or a member of the family of the record owner resides in the unit;

5. there is more than one mailbox at the premises;

6. there is more than one electric, water or gas meter at the premises;

7. there are separate entrances for distinctly separate portions of the building at the premises;

8. there are internal partitions or internal doors which may serve to bar access between separate portions of the dwelling used for residential purposes, including but not limited to bedrooms;

9. there exists a written or oral lease or rental arrangement, payment or other agreement for occupancy of portions of the dwelling among its owner(s) and/or occupants and/or persons in possession thereof;

10. one or more occupant of the premises does not have unimpeded and/or lawful access to all parts of the premises;

11. there are two or more kitchens at the premises, each containing one or more of the following: a range, oven, hotplate, microwave or other similar device customarily used for cooking or preparation of food and/or a refrigerator;

12. the premises are advertised on the internet or some other method for the rental of the premises;

13. the premises are a short-term rental if advertised on the internet or some other method for a period less than the period as defined in section 103-4.

14. any person who offers the premises for rent, use or occupancy by a non-owner is a person with authority as that term is used in sections 103-6 and 103-6-A.

§103-15. Penalties for offenses.

A. The first violation of this chapter within an eighteen-month period by the owner(s) and/or tenant(s) shall be punishable by a fine of not less than \$500 nor more than \$1,500.

B. The second violation of this chapter within an eighteen-month period shall be punishable by a fine of not less than \$1,000 nor more than \$2,500.

C. The third violation of this chapter within an eighteen-month period shall be punishable by a fine of not less than \$1,500 nor more than \$5,000.

D. Each day that a violation of this chapter exists shall constitute a separate violation of this chapter.

E. A violation existing at the premises shall be a violation by both the tenant and the owner and at the sole discretion of the Village either the tenant or the owner or both the tenant and the owner may be charged with and prosecuted for the existence of a violation.

F. Additionally, in lieu of imposing the fine authorized by this chapter, in accordance with Penal Law § 80.05(5), the court may sentence the defendant(s) to pay an amount, fixed by the court, not exceeding double the amount of the rent collected over the term of the occupancy.

§103-16. Severability.

In the event that one or more of the provisions of this local law or chapter shall be deemed to be unenforceable, the remaining provisions of this local law or chapter shall remain in full force and effect.

Section 2. Severability. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or 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, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 3. Effective date. This local law shall take effect immediately upon filing with the Secretary of State.