

VILLAGE OF HILLBURN

Local Law No. 3 of 2023
Adopted 5/09/2023

**A LOCAL LAW LOCAL LAW REGULATING RENTAL
PROPERTIES IN THE VILLAGE OF HILLBURN**

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

Section 1. The Code of the Village of Hillburn is hereby amended by adding thereto a new chapter,

Chapter 188, entitled “Rental Properties,” to provide as follows:

§ 188-1. Definitions; interpretation of terms.

A. As used in this article, these terms shall have the meanings indicated as follows:

ACTION or PROCEEDING — Any action or proceeding which may be instituted in the Justice Court of the Village of Hillburn or the County Court of the County of Rockland or the Supreme Court of the County of Rockland or any court of competent jurisdiction with an alleged violation of any law of the Village of Hillburn.

BUILDING — Any improved real property, residential or mixed-use (commercial-residential), located within the Village of Hillburn that is non-owner-occupied.

IDENTIFICATION OF BUILDING — It is required that the house number be placed on the building in a conspicuous place.

OWNER — Any individual or individuals, partnership or corporation or any similar type of business organization, whether for profit or otherwise, in whose name title to a building stands, including a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the property.

PROCESS — A summons, appearance ticket or any notice, mandate or any other paper process issued under any provision of the Code of the Village of Hillburn or any law or regulation of the State of New York.

RENTAL PROPERTY — Includes all properties which are either rented, leased, let or hired out to be occupied for residential or mixed use (commercial-residential), and are non-owner-occupied.

B. For any rental property to be considered owner-occupied, the owner must demonstrate to the Building Department that all individual owners, all partners, or all shareholders of a corporation actually have their principal residence at the rental property and reside therein on a full-time basis, it being the actual domicile of all individual owners, all partners, or all shareholders. At the request of the Village of Hillburn, any owner who claims to occupy the rental property shall provide a sworn affidavit providing the necessary information to support his or her claim that the premises are owner-occupied.

§ 188-2. Registration of owner.

- A. The owner of a property constituting a rental property shall register the same with the Building Department within 60 days of the effective date of this article on a form approved by the Building Department. This form shall be known as a “landlord registration statement” which shall be signed by the owner under oath.
- B. It shall be unlawful for any owner to offer any unit for rent, or to rent any unit, or to allow any rental unit to be occupied without having first registered pursuant to this chapter as required herein within the time prescribed for such registration and to have obtained a permit therefor. Failure to receive notice of the registration deadline will not excuse failure to register rental property. It is the owner's responsibility to fulfill the requirements of this chapter.

§ 188-3. Landlord registration statement.

- A. Every owner of a rental property as above defined shall file with the Building Department, within 60 days after the adoption of this chapter, a landlord registration statement on forms to be supplied by the Building Department, containing the following:
 - (1) A description of the premises by street number and section, block and lot number, including tax identification number.
 - (2) The owner's name, residential address, and mailing address, together with his/her business telephone number, home phone number, cell phone number, fax number, as well as e-mail address, or, if such owner is a corporation, the name and address of such corporation and the name, residence, business address, together with the residence, business telephone numbers, cell phone numbers, fax numbers and e-mail addresses of all officers.
 - (3) Proof of residency of each owner.
 - (4) A description of the structure, including the number of rental dwelling units in the structure.
 - (5) A floor plan depicting the location, use and dimension of each room situated within the dwelling unit.
 - (6) The number of persons intended to be accommodated by, and to reside in, each such rental dwelling unit.
 - (7) The name of each person that is and/or will be occupying the premises intended for rental occupancy.
 - (8) A copy of the most recent deed and real property tax bill, confirming the ownership of record of the dwelling unit.
 - (9) A certification that all municipal real property taxes, Village water and sewer fees and any other Village fees or charges relating to the property are paid and a copy of the current real property tax bills and water and sewer bills, with evidence that the same are paid in full.

- (10) Designation of a managing agent. In the event the owner does not reside in Rockland County, then the owner must designate a managing agent. If a managing agent is required, then the owner shall provide the following information to the Building Department: the name, residence, business and e-mail address and residence, business and fax telephone numbers of a natural person, 18 years of age or over, who actually resides within the County of Rockland, and who shall be designated by such owner as a managing agent responsible for and in control of the maintenance and operation of such dwelling, and who shall be designated as the person upon whom process may be served on behalf of the owner. The managing agent and/or owner shall keep a current record of all the tenants, and their names and addresses, who are renting, leasing or living in the premises. There shall be endorsed upon such statements a written consent to such designation signed by such managing agent. An owner who is a natural person and who meets the requirements of this subsection as to the location of the residence or place of transacting business of a managing agent may designate himself/herself as such managing agent.
- (11) Each application shall be executed by and sworn to under oath by the owner of the dwelling unit.
- (12) The owner shall, at all times, keep this information updated, and when there is a change in ownership, a change in the managing agent, a change in tenant(s), or a change in any information set forth on the registration form, the owner shall update the information by amending the landlord registration statement within 15 days from the date of any such change.
- (13) Any designation as managing agent made pursuant to the provisions of this section shall remain in full force and effect until changed or terminated as hereinafter provided.
- B. Upon completion and execution and submission of the landlord registration statement as aforesaid, said registration shall be reviewed by the Building Department or its designee for adequacy. Should the Building Department and/or its designee determine that said application is incomplete, defective or untruthful for any reason, said application shall be marked "rejected" and returned to the filer with an explanation of the reason(s) for rejection. A rejected application shall not be deemed to comply with the following provisions of this article.
- C. It shall be the responsibility of each owner to timely notify the Building Department whenever the information provided in the landlord registration statement has become outdated or for any reason is no longer accurate.
- D. Where, after filing of any landlord registration statement in relation to any rental property under the applicable provisions of this chapter, the owner of such property shall have granted or transferred his/her right, title or interest therein or in any part thereof, such owner shall file with the Building Department within 15 days after such grant or transfer a written statement which, under oath, shall contain the name and residence, business addresses, business and home telephone, cell phone numbers, fax numbers and e-mail of the grantee, transferee or other successor of such right, title or interest, or if such grantee, transferee or successor is a corporation, the name and address of such corporation, including the names of all officers, their addresses, business and residence phone and cell numbers as well as e-mail addresses and fax numbers.

- E. Where, after the filing of any landlord registration statement with the Building Department pursuant to the applicable provisions of this chapter, any change other than a designation of a different managing agent or a change of ownership or interest occurs in any name, residence or any business address of a list of officers required to be included in such statement, the owner, within 15 days after such change, shall file in duplicate, on forms to be furnished by the Building Department, a statement under oath setting forth the particulars of such change so as to supply the information necessary to make currently correct the last landlord registration statement filed pursuant to the applicable provisions of this section.
- F. An owner may terminate such designation by filing with the Building Department a sworn written statement designating a new managing agent made in conformity with the provisions hereinabove cited.
- G. Any landlord registration statement or designation of a managing agent required to be filed with the Building Department by any owner of a rental property under the provisions of this section shall be signed by such owner, or if such owner is a corporation, by an officer thereof, or if such owner is a partnership, by a partner thereof, and said statements must be sworn to under the penalties of perjury.
- H. A new application for a rental occupancy permit shall be filed whenever a dwelling unit or portion thereof has become vacant and the owner intends to permit a new tenant or other person to take up residence. No additional fee will be required if the owner is registering a change in tenancy only under an existing valid rental occupancy permit.
- I. Any such landlord registration statement or designation of a managing agent shall be deemed *prima facie* proof of the statement therein contained, in any criminal or civil prosecution instituted by the Village of Hillburn or by any proper prosecutorial agency against the owner or managing agent of a rental property.

§ 188-4. Inspection requirements.

- A. The Building Department or its authorized designee or agent shall make provisions for inspections of each rental property which is subject to the provisions of this chapter and shall notify each owner and/or managing agent of each rental property as to the time and place of such inspection. The inspection shall take place at a minimum of every 12 months. The inspection shall be for the purpose of determining compliance with all applicable rules and regulations concerning safety and maintenance of all rules and regulations applicable to said rental property, including the Code of the Village of Hillburn and all other such rules and regulations and laws of the State of New York. The owner and/or managing agent may refuse to allow inspections of any dwelling unit contained in the rental property. In such event, the Building Department may apply for a search warrant. In addition, the Building Department may deny a permit with respect to any such property. In addition, the owner and/or managing agent shall be obligated to review with the Building Department and its designee or agent the contents of the landlord registration statement to determine if all said information is up-to-date, complete and accurate in all respects.

- B. Any inspection report issued pursuant to Subsection A of this section which reveals the presence of a violation shall be remedied by the owner within the time stated in the report. Failure to bring any building and/or rental property into conformance with such report and/or to remedy within the time set forth therein shall constitute a violation of this chapter, it being expressly understood that this provision shall not constitute the exclusive remedy of the Village of Hillburn, but shall be an addition thereto.

§ 188-5. Application for search warrants.

At the request of the Building Department, the Village Attorney or his deputy or designee is authorized to make application to any other court of competent jurisdiction for the issuance of a search warrant to be executed by a police officer in order to conduct an inspection of any premises believed to be subject to the registry jurisdiction of this chapter. The Building Department may seek a search warrant whenever the owner and/or managing agent fails to allow inspections of any dwelling unit contained in the rental property where there is a reasonable cause to believe that there is a violation of this chapter or a violation of the New York State Uniform Fire Prevention and Building Code or of any code of the Village of Hillburn.

§ 188-6. Enforcement.

Without limitation on any available remedy, the Village of Hillburn shall have a choice of enforcing this chapter by seeking civil penalties or by instituting a criminal proceeding or may choose to do both.

- A. Criminal proceeding. A summons or appearance ticket for any violation of this chapter may be served in the County of Rockland as defined within the meaning of New York Criminal Procedure Law § 150.40. In the event that the owner does not reside in the County of Rockland, then the owner shall be obligated to designate a managing agent who maintains a bona fide residence in the County of Rockland.
- B. A designating managing agent of an owner may be served with a notice of violation, order of remedy, order of violation, 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 owner.
- C. No owner who designates a managing agent pursuant to the provisions of this chapter may assert the defense of lack of notice or lack of *in personam* jurisdiction based solely upon the service of process upon his designated agent.

§ 188-7. Service of papers; notice of violations.

- A. Service of papers and notice of violations shall be:
 - (1) By delivering to and leaving a copy of the same with any person or persons violating or who may be liable under any of the several provisions of this chapter; and
 - (2) By registered or certified mail to the most current address on file in the landlord registration statement upon the owner and/or managing agent; and

- (3) If none is on file, to the most current address in the Village Receiver of Taxes Office by registered or certified mail to the owner and/or managing agent; and if such person or persons cannot be served by any of the aforesaid methods after diligent search shall have been made for him/her or them, then such notice or order may be served by posting the same in a conspicuous place upon the rental property where such violation is alleged to exist, or to which such notice may refer, or which may be deemed unsafe or dangerous, which shall be the equivalent of personal service of said notice upon all parties, including the owner and/or managing agent for whom such search shall have been made; or
 - (4) By any other method or service authorized pursuant to Article III of CPLR.
- B. Notice by mail to owners residing out of state. If the person or persons or any of them to whom said notice is directed do not reside in the County of Rockland and have no known place of business therein, the same may be served by delivering to or leaving with such person or persons or either of them a copy of said notice; if said person or persons cannot be found with a due-diligence search, then by posting a copy of the same in a manner aforesaid and depositing a copy thereof in a post office in the Village of Hillburn, enclosed in a sealed wrapper addressed to said person or persons at his/her last known place of residence with the postage paid thereon, and said posting and mailing a copy of said notice shall be equivalent to personal service of said notice.

§ 188-8. Rental permit required; fees.

- A. Rental permits.
- (1) No rental property and/or building as defined herein shall be occupied by anyone, including any tenants, without a valid rental permit.
 - (2) Upon the filing with the Building Department of the permit application, permit fee, and all documents and information required by this section, the Building Department shall have 30 days to review the application and then either issue the permit, with or without conditions, or notify the applicant in writing that the application has been denied along with the reason or reasons for denial. If a permit is issued, the permit shall bear the signature of the Building Inspector.
 - (3) In reviewing the application, if the Building Inspector shall have the right to inspect the property for purposes of ensuring compliance with this Chapter. If an inspection authorized herein is conducted, the Building Inspector may use the results of such inspection in determining whether to issue the permit, with or without conditions, or to not issue the permit.
 - (4) The Building Department shall issue such permit after receipt of a valid landlord registration statement which complies with all of the requirements set forth herein. In issuing a permit, the Building Inspector may impose such reasonable conditions and restrictions as are directly related to and incidental to the use of the property for residential rentals.

- (5) No rental permit shall be issued for any property for which there are outstanding real property taxes, water or sewer fees or any other outstanding amount owed with respect to the property to the Village of Hillburn or if a violation of the Zoning Law exists. In order to issue such permit, the Building Inspector must determine that adequate on-site parking is provided and that the parking area is improved in accordance with the provisions of the Zoning Law and to the satisfaction of the Building Inspector. Tenants and guests shall park in the off-street parking spaces and shall not park on any part of the lawn of the property nor on the public or private street. The property must, in the opinion of the Building Inspector, have sufficient off-street parking spaces improved in accordance with Section 250-27(D) of the Zoning Law.
 - (6) In addition, The Building Inspector may decline an application for any of the following reasons:
 - a) If the application is incomplete, the documentation required by this section or regulations adopted by the Village was not included with the application or the full permit fee, in an acceptable form of payment, was not included with the application.
 - b) If the Building Inspector previously issued a permit to any of the owners needing to sign the permit application and any of such owners had a permit revoked within the previous year.
 - c) If the affidavit from the owners or if an inspection conducted by the Enforcement Officer as authorized in this section evidences that the subject property is not in compliance with this section or the Village of Hillburn Code.
 - (7) Such rental permit shall be valid until such time as the owner or any new owner is required to file a new landlord registration statement.
 - (8) The owner and/or managing agent must present the previous rental permit at the time that the new landlord registration statement is submitted.
- B. The fee schedule applicable to the inspections required by this chapter shall be set forth in the Village Schedule of Fees.

§ 188-9. Revocation or suspension of permit.

Any permit issued pursuant to this chapter may be revoked or suspended by the Building Department after notice to the owner, setting forth the basis for the suspension or revocation and an opportunity for the owner to be heard upon a finding by the Building Department that the requirements of this chapter or any conditions of said permit have been violated or that the premises are not being maintained in accordance with thereof any applicable law, rule or regulation. Any person who claims to be aggrieved by any such suspension or revocation may file with the Village Clerk a letter setting forth the basis for his/her contention that the suspension or revocation is erroneous within five days after receipt of any such notice of suspension or revocation. The Board of Trustees shall promptly provide an opportunity for the appellant to be heard, either in writing or in person, and shall either affirm, reverse or modify the suspension or revocation.

§ 188-10. Penalties for offenses.

- A. Violations of this chapter will constitute an offense within the meaning of the Penal Law of the State of New York, punishable as provided for herein. In addition, a violation of any provision of this chapter shall constitute a municipal infraction and will be subject to applicable penalties under this chapter, and the Village of Hillburn may choose to enforce this chapter as a criminal or civil matter, or both. Any owner who violates, disobeys, neglects or refuses to comply with any of the terms of this chapter shall be subject to a fine of not more than \$5,000. Each week a violation continues shall be deemed a separate offense and so subject the owner to an additional fine of up to \$5,000. In addition, if the Village of Hillburn chooses to proceed under this chapter as a criminal offense, the violation of this chapter shall be subject to a fine of up to \$5,000 and/or up to 30 days in jail, it being understood that each week a violation continues shall be deemed a separate offense subjecting the offender to additional weekly fines of up to \$5,000 and/or additional jail sentences of up to 30 days.
- B. Legal action. In case any building, structure or land is used in violation of this chapter, the Trustees of the Village of Hillburn or the Code Enforcement Officer or any other official of the Village, in addition to other remedies, may institute any appropriate action or proceeding through the Village Attorney in order to prevent such unlawful use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land. Such owner shall, in addition, pay all the costs and expenses incurred by the Village in prosecuting any action to abate the violation or to compel compliance with this Chapter.
- C. Should the aforesaid penalties not be paid within 30 days of being assessed, and after notice of said failure is served as provided by law, then the property covered by this article will be assessed for the unpaid penalties and shall be collected in the same manner and time as Village taxes.

§ 188-11. Miscellaneous.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but 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 ordered.

Section 2. This local law shall take effect immediately upon filing with the Secretary of State.