

Notice of Public Hearing to Consider a Local Law to Amend Town Code Chapter 105, Entitled “Rental of Real Property”, to Require Safety Inspections for all Rental Properties and Eliminate Owner Occupied Premises from being Permitted as Vacation Rentals,

Resolved, that the Town Board of the Town of Shelter Island hereby directs that a public hearing shall be held on Tuesday April 25, 2023, at __p.m. to hear any and all persons either for or against a local law entitled “A LOCAL LAW amending Chapter 105 entitled “Rental of Real Property”, to require safety inspections for all rental properties and eliminate owner occupied premises from being permitted as vacation rentals of which provides as follows:

LOCAL LAW NO. _____ of 2022

A LOCAL LAW amending Chapter 105 entitled “Rental of Real Property” to require safety inspections for all rental properties and eliminate owner occupied premises from being permitted as vacation rentals.

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

Section 1. Legislative Intent.

The Town Board has a duty to ensure that all rental dwelling units within the Town of Shelter Island are safe for its inhabitants and as such has determined that safety inspections, performed by either a licensed professional or the Building Department, are to be required prior to any use of same. Further, the Town Board finds that the lack of community housing opportunities impacts the ability of Shelter Island residents to secure necessary services. As such, the Town Board has determined that owner occupied premises, also known as accessory apartments, shall only be used as year-round rentals, as already required in the Zoning Code, and not for transient rentals of 14 days or less.

Section 2. Amendment.

Section 105-10 of the Shelter Island Code Chapter 129 (Rentals), is hereby amended by adding the underlined words as follows:

§ 105-10. Rental Regulations generally.

The following regulations apply to all rentals of real property on Shelter Island regardless of rental term.

(1) Code compliance: Any property offered for rent on Shelter Island shall have a valid and current certificate of occupancy or certificate of compliance and shall be in compliance with the New York State, Suffolk County and Shelter Island Town Building and Fire Codes.

(2) Bedrooms limited: The total number of rooms utilized as bedrooms in any property offered for rent on Shelter Island shall not exceed the number indicated on the building plans filed with the Building Department for the structure(s) in which the rental is located.

(3) Occupancy: The total occupancy of any rental shall not exceed two times the number of conventional legal bedrooms except that children of the age of three years of age shall not count toward the total.

(4) Good neighbor brochure: The owner shall provide a copy of the then current good neighbor brochure, as published in PDF format on the Town website, to each lessee prior to or at the commencement of the rental term and the same shall be considered part of the rental agreement.

(5) Safety Inspection: The owner shall provide a written certification, form to be provided by the Building Department, from a licensed architect, licensed engineer or licensed home inspector that states that the rental dwelling unit fully complies with all of the provisions of the Property Maintenance Code of the New York State Uniform Fire Prevention and Building Code and Code of the Town of Shelter Island. The certification shall include, but not be limited to, the number of bedrooms as indicated on the building plans filed with the Building Department for the structure(s) in which the rental is located, the square footage of each bedroom, the location of every smoke and carbon monoxide detector, and a description of every improvement indicated on the survey. In lieu of the provision of a certification, an inspection may be conducted by the Building Department, and in cases where questions or concerns exist regarding information presented within an application the Building Department retains the right to require an inspection.

Section 105-30 of the Shelter Island Code Chapter 129 (Rentals), is hereby amended by deleting the stricken words and adding the underlined words as follows:

§ 105-30. Vacation rentals.

A. Vacation rentals generally prohibited. It shall be unlawful and a violation of this chapter for any person or entity that owns, rents or manages property on Shelter Island to rent, lease, or advertise for rent any such property or any portion thereof (including any accessory apartment or accessory sleeping quarters) in any residential (A, AA and C) zone for a period of 14 days or less unless specifically permitted under § **105-30B** or C below.

B.

Permitted vacation rentals. The following shall be permitted notwithstanding § **105-30A** above so long as the property is properly registered under § **105-20**; proper notification is made under § **105-21**; and at registration the owner selects one of the following:

(1)

~~Owner-occupied premises. A residential property on Shelter Island may be rented as often as desired and without limit as to frequency or duration of term where one of the following is simultaneously domiciled on the same or immediately adjacent lot (including a legal accessory structure or bedroom) with tenant or tenants during a rental term:~~

~~(a)~~

~~Owner (or an uncompensated member of the owner's immediate family);~~

~~(b)~~

~~Trustee, beneficiary or settlor, if a trust;~~

~~(c)~~

~~President or majority shareholder, if a corporation; or~~

~~(d)~~

~~Member, if an LLC or partnership.~~

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~~(2)~~

Homesteader's hardship license. A residential property on Shelter Island that is the owner's primary residence may be rented one time in each seven-day period between and including Memorial Day weekend and Labor Day weekend and one time in every fourteen-day period at all other times pursuant to the homesteader's hardship license, provided that:

(a)

At the time of registration the owner submits proof of the following:

[1]

That the property to be rented is receiving a basic or enhanced star exemption; and

[2]

The owner has an annual gross income (less net rental income) of less than 500% of the United States Department of Health and Human Services Poverty Guidelines which must be verified each registration period by submission of an appropriate redacted copy of federal income tax returns for the most recent tax year. (Tax returns shall be reviewed to determine eligibility then returned or destroyed. No income tax records will be maintained by the Town.); and

(b)

Each qualifying owner and such person's nuclear family (including owner, domestic partner and minor children) is collectively limited to one homesteader's hardship license.

(c)

The homesteader's hardship license may not be combined with other permitted vacation rentals to increase the number of rentals allowed.

(d)

The term shall commence on the first day of occupancy.

(32)

Limited commercial vacation rental license. Vacation rentals are permitted pursuant to a vacation rental license as follows:

(a)

License. An owner (to include his or her nuclear family) not exempted by § ~~105-30B(1)~~ ~~or (2)~~ above and who has not had a previous license suspended or revoked on Shelter Island, upon application, may obtain to license one property on Shelter Island for use as a vacation rental; and

(b)

Frequency of rental. A vacation rental license permits the owner to rent the licensed premises one time in any fourteen-day period; and

(c)

Commencement of rental period. The fourteen-day period referenced above shall commence on the first day of the term of the initial rental and continue for the 13 following days; and

(d)

License term. A vacation rental license shall be valid for two calendar years to run concurrent with property registration at which time it must be renewed.

(e)

License fee. The fee for the vacation rental license shall be set by the Town Board.

(f)

Multiple licenses prohibited. No owner may be issued a vacation rental license if such person (or any member of his or her nuclear family) owns any interest in another property on Shelter Island for which they have already received or applied for a vacation rental license.

(g)

Corporate ownership. Any legal entity other than a natural person (including but not limited to a corporation, LLC, trust or partnership) may not be issued a vacation rental license on Shelter Island, if any owner, partner, member, settlor, trustee, beneficiary, shareholder, officer, or director of that entity already holds or has applied for a vacation rental license for another property.

(h)

Corporate disclosure. Any partnership, trust, LLC or corporate applicant for a vacation rental license must provide documentation naming all partners, members, settlors, trustees, beneficiaries, shareholders, officers and directors, and submit a statement verifying that none of those named are partners, members, settlors, trustees, beneficiaries, shareholders, officers and directors, of any other corporation or partnership, or an individual owner that already holds or has applied for a vacation rental license on Shelter Island.

(i) Nontransferable. The vacation rental license is specific to the property described on the license and to the individual or entity named on the permit. The vacation rental license may not

be transferred, assigned or passed through an estate and does not authorize any person, other than the person named therein, to permit or arrange vacation rentals on the licensed property.

(i)

Agent required. The owner(s) of the vacation rental property must execute a written statement, which designates an agent for service for criminal and civil process pursuant to § 318 of the Civil Practice Law and Rules and must be either:

[1]

A person, firm, partnership or corporation with an actual place of business, or usual place of residence located within the boundaries of the Town of Shelter Island; and/or

[2]

The Town Clerk of the Town of Shelter Island.

(k)

Obligation to update address. Every owner of vacation rental property shall ensure that the address for service of process is current and shall advise the Town Clerk whenever the address is changed.

(l)

Neighbor contact. The owner must provide the Town of Shelter Island and to all neighbors within 200 feet of the property line of the vacation rental with:

[1]

Owner's personal cell phone number to call in the event of problems with the vacation rental; and/or

[2]

The name and telephone number of a local contact person including name, address, phone number, and email address designated as the owner or owner's agent or representative who resides on Shelter Island.

~~(m)~~

~~Self checklist. Every applicant for a vacation rental license must a notarized self checklist to be available on the Town website verifying the property's compliance with relevant Federal, New York State, Suffolk County and Shelter Island Town regulation.~~

(4)

Fund-raising rentals. Vacation rentals are permitted without limitation for the purpose of fundraising on the premises of Taylor's Island Foundation; the Nature Conservancy (Mashomack); Sylvester Manor or any other nonprofit charitable organization that seeks and obtains a waiver from the Town Board.

Section 3. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10.

Section 4. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

Section 5. Effective Date.

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to publish the following Notice of Public Hearing:

SUMMARY OF PROPOSED LAW

One purpose of this amendment is to try and ensure that every rental dwelling unit within the Town provides a safe environment for the residents thereof. Additionally, it seeks to compel reversion back to the current requirement in the zoning code that accessory apartments, or accessory dwelling units, be solely used for year-round occupancy, and remove this administrative exception in order to put such dwelling units back into the residential year-round occupancy rental pool, in order to provide more community housing opportunities.