

Town of Southeast, Putnam County, NY

Local Law No. ____ of 2004

A LOCAL LAW entitled: “**A Local Law to add Chapter 86 to Town of Southeast Code.**”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

Section 1. Legislative Intent

The Town Board of the Town of Southeast has determined that there exists in the Town of Southeast serious conditions arising from rental of dwelling units that are substandard or in violation of the New York State Uniform Fire Prevention and Building Code, Multiple Residence Law, Town of Southeast Housing Code, Building Rehabilitation Code, Electrical Code, Fire Prevention Code, Plumbing Code and other codes and ordinances of the town, are inadequate in size, overcrowded and dangerous, that such dwelling units pose hazards to life, limb and property of residents of the town and others, tend to promote and encourage deterioration of the housing stock of the town, create blight and excessive vehicle traffic and parking problems and to overburden municipal services. The Board finds that current Code provisions are inadequate to halt the proliferation of such conditions and that the public health, safety, welfare and good order and governance of the town will be enhanced by enactment of the regulations set forth in this chapter, which regulations are remedial in nature and effect.

Section 2. Chapter 86

Chapter 86 of the Town Code is created and reads:

Section 86-1, “Purpose”

- A. Scope. This chapter shall apply to all rental dwelling units located within the Town of Southeast, whether or not the use and occupancy thereof shall be permitted under the applicable use regulations for the zoning district in which such rental dwelling unit is located, as in this chapter provided. Any dwelling unit, rooming house, rooming unit or any other premises subject to this chapter shall be presumed to be rented for a fee and a charge made if said premises are not occupied by the legal owner thereof.
- B. Applicability. The provisions of this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations. Nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the town, county or state or existing requirements of any other provision of local laws or ordinances of the town or county or state laws and regulations. In case of conflict between any provision of this chapter and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail. 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 under any other applicable legislation.

Section 86-2, “Definitions.”

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

CODE ENFORCEMENT OFFICER -- Building Inspector, Assistant Building Inspector, Zoning Enforcement Officer, sheriff or Fire Inspector of the Town of Southeast.

DWELLING UNIT -- A structure or building, or part thereof, or an area, room or rooms therein, occupied or to be occupied by one or more persons as a home or residence.

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

OWNER -- Owner or any other person having the right to possession of a dwelling unit.

RENT -- A return, in money, property or other valuable consideration (including payment in kind or for services or other thing of value) for use and occupancy or the right to use and occupancy of a dwelling unit, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL DWELLING -- A dwelling unit established, occupied, used or maintained for rental occupancy.

RENTAL OCCUPANCY -- The occupancy or use of a dwelling unit by one or more persons as a home or residence under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use.

Section 86-3, "Rental occupancy permit required."

- A. It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any person or entity who owns a dwelling unit in the town to use, establish, maintain, operate, let, lease, rent or suffer or permit the occupancy and use thereof as a rental occupancy by someone other than the owner or his immediate family 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. Application for a rental occupancy permit for a rental dwelling unit shall be made in writing to the Building Department on a form provided therefor. Such application shall be filed and shall contain:
 - (1) The name, address and telephone number, if any, of the owner of the dwelling unit intended for rental occupancy; the street address and tax map designation (section, block and lot or lots) of the premises intended for rental occupancy or the premises in which the rental dwelling units intended for occupancy are located; a description of the structure, including the number of rental dwelling units in the structure; the number of persons intended to be accommodated by, and to reside in, each such rental dwelling unit; and the number of rooms, and the dimensions and use of each room, in the structure but outside of the rental dwelling units.
 - (2) The names of each person presently residing in or occupying such premises intended for rental occupancy. [Amended 4-15-1997]

- C. For each rental dwelling unit, a description of the unit, including the number of rooms in the rental dwelling unit; and the dimensions and use of each such room shall be included. The name, address and telephone number, if any, of the managing agent or operator of each such intended rental dwelling unit shall be included. Such application shall be accompanied by the following:
- (1) A property survey of the premises drawn to scale not greater than 40 feet to one inch, or, if not shown on the survey, a site plan, drawn to scale, showing all buildings, structures, walks, drives and other physical features of the premises and the number, location and access of existing and proposed on-site vehicle parking facilities. A building permit application, properly prepared, for all proposed buildings, improvements and alterations to existing buildings on the premises, if any. A copy of the certificate of occupancy or certificate of existing use, if any.
- D. In the case of a condominium unit, the application shall be accompanied by a scale drawing or floor plan of the condominium unit in lieu of a survey or site plan.
- E. Each application shall be executed by and sworn to by the owner of the premises or such person who operates such premises if other than the owner.
- F. Notwithstanding the above, no rental occupancy permit shall be required for "agricultural worker housing" as defined in § 108-3 of the Southeast Town Code.
- G. Notwithstanding the above, no rental occupancy permit shall be required for a residential care facility established under New York State guidelines.

Section 86-4 "Fees."

- A. A nonrefundable permit application fee shall be paid, upon filing an application for a rental occupancy permit, in accordance with the following schedule of rental dwelling units per structure:

Type of Dwelling	Fee
One Unit	\$75.00
Two Units	\$150.00
Three Units	\$ 225.00
Four Units	\$300.00
More than four units	\$300.00 plus \$50.00 for each unit in excess of four

- B. The fee required by this section shall be waived for any applicant which demonstrates that it is a not-for-profit housing development corporation organized under the laws of the State of New York, and that it is providing housing for senior citizens or other designated special populations subject to income guidelines established by either federal or state regulation.
- C. Any commercial hotel/motel business 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 operation, shall pay an biannual fee of \$200 per application. For the purposes of this chapter, a "short duration" shall be defined as not more than 21 consecutive days. This section shall not apply to any commercial motel/hotel whose primary purpose is to provide permanent residences to their customers. For the purposes of this chapter, "permanent residence" shall be defined as more than 21 consecutive days.

- D. Any rental unit that operates during a one-hundred-fifty-day period in the months of May, June, July, August and September, only, shall pay a bi-annual fee of \$10 per unit.

Section 86-5, "Review of application."

The Code Enforcement Officer shall review each application for completeness and accuracy and shall make an on-site inspection of the proposed rental dwelling unit or units. If satisfied that the proposed rental dwelling unit or units, as well as the premises in which the same are located, comply fully with all applicable state and local laws, ordinances, rules and regulations of the county (including Department of Health permits or approvals) and town, and that such rental dwelling unit or units would not create an unsafe or dangerous condition or create an unsafe and substandard structure as defined in Town Code or create a nuisance to adjoining nearby property, the Code Enforcement Officer shall issue the permit or permits.

Section 86-6, "Term."

All permits issued pursuant to this chapter shall be valid for a period of two years from date of issuance.

Section 86-7, "Register of permits."

It shall be the duty of the Code Enforcement Officer to maintain a register of permits issued pursuant to this chapter. Such register shall be kept by tax map number, license number, receipt number, street address showing the name and address of the permittee, the number of rental dwelling units at such street address, the number of rooms in each such rental dwelling unit and the date of expiration of permit for such unit.

Section 86-8, "Smoke detectors."

No permit shall be issued until the Code Enforcement Officer shall inspect the rental dwelling unit to determine that it is equipped with a functioning smoke detector device, in compliance with New York State Uniform Fire Prevention and Building Code.

Section 86-7, "Inspections."

The Code Enforcement Officer is authorized to make, or cause to be made, inspections to determine the condition of rental dwelling units to safeguard the health, safety and welfare of the public. The Code Enforcement Officer is authorized to enter, upon consent of the owner if the unit is unoccupied, or upon consent of the occupant if the unit is occupied, any rental dwelling unit and the premises in which the same is located, at any reasonable time during daylight hours, or at such other time as may be necessary in an emergency, without consent of the owner, agent and/or tenant for the purpose of performing his duties under this chapter.

Section 86-8, "Application for search warrant. "

The Code Enforcement Officer of the Town of Southeast is authorized to make application to any court of competent jurisdiction for the issuance of a search warrant in order to conduct an inspection of any premises covered by this chapter where the owner refuses or fails, after due notice by certified mail, to allow an inspection of its rental premises and where there is reasonable cause to believe that a violation of this chapter law occurred. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York.

Section 86-9, "Revocation of permit."

- A. The Code Enforcement Officer shall revoke a rental occupancy permit where he or she finds that the permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit has been issued for a period of 14 business days or more after written notice has been given to the permit holder or the managing agent of such rental dwelling unit a violation of the Multiple Residence Law, New York State Uniform Fire Prevention and Building Code or a violation of this chapter or other chapter of the Town Code. Revocation of a permit under this subsection cannot be done by a devisee or assistant of the Code Enforcement Officer.
- B. An appeal from such revocation may be taken by the permit holder to the Town Board, by written request, made within 30 days from the date of such revocation. The Town Board 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, a conclusion and a decision either sustaining such permit revocation or reinstating such permit within 30 days after close of such public hearing. Unless the Town Board directs otherwise in circumstances constituting serious threats to health and safety, the filing of an appeal shall stay the effectiveness of a permit revocation until the Town Board has considered and ruled upon the issue.

Section 86-10, "Rental registration required."

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any owner to permit any tenant or other person, excluding immediate family, to take up residence by a rental occupancy in any dwelling unit without the owner's first having completed and filed with the Code Enforcement Officer a rental registration form approved by the Code Enforcement Officer. A new form must 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 registering a change in tenancy only, under an existing valid permit.

Section 86-11, "Confidentiality of rental registration."

Under Public Officers Law §872(b), rental registration forms, and that portion of the rental occupancy permit application required, shall be exempt from disclosure under the Freedom of Information Law on the grounds that such disclosure would constitute an unwarranted invasion of personal privacy. The Code Enforcement Officer will institute strict policies to ensure that such information is available only to town personnel who are engaged in the enforcement of the provisions of this chapter.

Section 86-12, "Broker's responsibility prior to listing."

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any broker or agent to list, show or otherwise offer for lease, rent or sale on behalf of the owner any dwelling unit for which a current rental occupancy permit has not been issued by the Code Enforcement Officer. It shall be the broker or agent's duty to verify the existence of a valid permit before acting on behalf of the owner. Notwithstanding the above, first-time rentals shall be granted a fourteen-business-day grace period for submission of required application paperwork and tenant registration.

Section 86-13, "Broker's responsibility after renting."

Any broker or agent who has earned a commission or other compensation for renting or leasing a dwelling unit must, within five business days of earning said commission or other compensation, file with the Code Enforcement Officer a rental registration form, unless the owner has already filed such a form in the meantime. Failure to file shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York.

Section 86-14, "Penalties for offenses."

- A. Any person, association, firm or corporation which violates any provision of this chapter or assists in the violation of any provision of this chapter shall be guilty of a violation, punishable:
 - (1) By a fine of not less than \$250 and not exceeding \$1,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense.
 - (2) By a fine of not less than \$1,000 nor more than \$3,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second of two offenses, both of which were committed within a period of five years.
 - (3) By a fine of not less than \$2,000 nor more than \$5,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the third or subsequent offenses of a series of offenses, all of which were committed within a period of five years.

- B. Each week's continued violation shall constitute a separate additional violation.

Section 86-15, "Administration."

This chapter shall be enforced by the Code Enforcement Officer as defined by this chapter.

Section 86-16, "Severability."

If any clause, sentence, paragraph, section or part of this chapter 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 said judgment.

Section 3. Validity

The invalidity of any word, section, clause, paragraph, sentence, part, provision of this Local Law shall not affect the validity of any other part of this Local Law that shall be given effect without such invalid part or parts.

Section 4. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

This chapter shall be effective on, or upon filing with the Secretary of State, whichever is later. No violation of this chapter will be charged prior to, and no violation of this chapter, regarding failure to obtain a permit, will be charged against a person or entity which:

- A. Has filed the necessary application in proper form and in good faith, with all required information and attachments, on or before.
- B. Has consented to an inspection of the premises in question; and
- C. Has not received a final determination on the application, for reasons over which the applicant has no control.