



East Hampton Town Board

159 Pantigo Road
East Hampton, NY 11937

Meeting: 12/15/15 10:00 AM

Department: Town Attorney

Category: Local Law

Prepared By: Maura Gledhill

Initiator: Michael Sendlenski

Sponsors: Councilman Fred Overton

DOC ID: 16218

ADOPTED

RESOLUTION 2015-1337

**Adopt Local Law: Chapter 199 Rental Registry) Establishing
a Rental Registry and Regulating Rental Properties ("Rental
Registry")**

WHEREAS, The Town Board of the Town of East Hampton held a public hearing on November 19, 2015, to consider a local law establishing a rental registry and regulating rental properties in the Town of East Hampton; and

WHEREAS, after considering the matter, the comments of the public at the time of the hearing and during work sessions of the Town Board, the Town Board believes that the establishment of the subject regulations are in the best interests of the Town; and

WHEREAS, the proposed local law is a Type II action pursuant to the New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617.5 and Chapter 128 of the Town Code; now therefore, be it

RESOLVED, said Local Law is hereby adopted to read as follows:

LOCAL LAW NO. 38 OF 2015

A LOCAL LAW creating a new Chapter 199 (Rental Registry) establishing a rental registry and regulating rental properties.

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

SECTION 1. Legislative Intent.

The Town of East Hampton recognizes that there are rising concerns and incidences of single-family residences being overcrowded, utilized as share houses, motels or other transient housing accommodations, multi-family residences and two-family residences. The Town finds that a large percentage of these incidences occur in rental properties, properties not occupied by the owner of the property.

In order to provide the Town's Public Safety Personnel with additional information to ensure compliance with legal usage of properties throughout the Town, and to protect the health, safety, and welfare of rental property occupants as well as the community at large, the Town requires more and better information and regulation of rental properties. The adoption of a rental registry will provide information on the quantity and location of rental properties throughout the Town and provide valuable information to Public Safety personnel in ensuring compliance with the provisions of the Town Code.

SECTION 2. Amendment.

The East Hampton Town Code is hereby amended by adding the underlined words in a new Chapter 199 (Rental Registry) as follows:

CHAPTER 199: Rental Registry.**§199-1-1. Definitions.**

All terms used in this Chapter shall have the meanings set forth below regardless of any inconsistent provisions elsewhere in the Town Code. Any terms not specifically defined herein shall have the same meaning as set forth in Chapter 255 (Zoning) or if not so defined therein, shall be defined by common usage.

DWELLING UNIT

A building or part of a building where the unit consists of one or more rooms with provisions for cooking, living, sanitary and sleeping facilities designed exclusively for residential use and arranged or intended to be occupied by one individual household or family living independently of other individual households or families.

FAMILY

A. The following shall constitute a family hereunder:

(1) Any number of persons occupying a dwelling unit, provided that all are related by blood, marriage or legal adoption and provided that they live and cook together as a single housekeeping unit; or

(2) Any number of persons not exceeding four occupying a dwelling unit and living and cooking together as a single housekeeping unit, where not all are related by blood, marriage or legal adoption.

B. A group of persons whose association or relationship is transient or seasonal in nature, rather than of a permanent and domestic character, shall not be considered a family.

C. A group of unrelated persons numbering more than four and occupying a dwelling unit shall be presumed not to constitute a family. This presumption can be overcome only by a showing that, under the standards enumerated in § 255-8-50 of the Town Code, the group constitutes the functional equivalent of a family. A determination as to the status of such group may be made in the first instance by the Building Inspector or, on appeal from an order, requirement, decision or determination made by him, by the Zoning Board of Appeals.

D. Persons occupying group quarters, such as a dormitory, fraternity or sorority house or a seminary, shall not be considered a family.

IMMEDIATE FAMILY

The owner's spouse, children, parents, siblings, grandparents or grandchildren.

OWNER

Any person, individual, association, entity or corporation whose name is listed as grantee on the last deed of record for the property, as recorded with the Suffolk County Clerk.

PERSON

Includes any individual, business, partnership, firm, corporation, enterprise, trustee, company, industry, association, public entity or other legal entity.

PRINCIPAL BUILDING INSPECTOR

The person holding the position of Principal Building Inspector for the Town of East Hampton or her designee.

PUBLISH

Promulgation of an available rental property to the general public or to selected segments of the general public, in a newspaper, magazine, flyer, handbill, mailed circular, bulletin board, sign, website, or electronic media.

RENT

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

RENTAL PROPERTY

A dwelling unit which is occupied for habitation as a residence by persons, other than the owner or the owner's immediate family, and for which rent is received by the owner, directly or indirectly, in exchange for such residential occupation. The term rental property shall include single-family houses, two-family houses, and apartments (other than those regulated under Section 255-11-63 "Affordable accessory apartments) but shall not include:

- 1.) legally existing hotels, motels, bed and breakfasts providing short term transient accommodations;
- 2.) any housing owned or managed by the East Hampton Town Housing Authority or any affordable or senior multi-family dwelling unit developments owned and/or managed by a not for profit organization;
- 3.) condominiums or residential cooperatives.

TENANT

An individual who leases, uses or occupies a rental property.

§199-1-2. Registration required.

A. Registration Required. It shall be unlawful and a violation of this chapter for any person or entity owning, renting or leasing a rental property within the Town to rent, lease or permit the occupancy of such rental property by other than the Owner or Owner's immediate family, without having first registered the property as a rental property with the Town Building Department by the filing of a Rental Property Registration Form or Rental Property Registration Renewal Form deemed complete by the Principal Building Inspector.

B. Rental Registration Number Required.

i.) It shall be unlawful and a violation of this chapter for any person or entity owning, renting or leasing a rental property within the Town to rent, lease or permit the occupancy of such rental property by other than the Owner or owner's immediate family, without first obtaining a Rental Registry Number from the Building Department for the specific premises used as a rental property.

ii.) It shall be unlawful and a violation of this chapter for any person to use a rental property that does not have a valid Rental Registry Number from the Building Department for the specific premises used as a rental property.

C. Rental Registration Update required. It shall be unlawful and a violation of this chapter for any person or entity owning, renting or leasing a rental property within the Town to rent, lease or permit the occupancy of such rental property by other than the Owner or Owner's immediate family, without having filed a Rental Registration update if there shall be a change in conditions as set forth in Section 199-1-3 (C) of this Chapter.

D. Use prohibited. It shall be unlawful and a violation of this chapter for any person or entity to use or occupy a rental property without that property being validly registered as a rental property with the Town Building Department.

E. Failure to publish Rental Registry Number. It shall be unlawful and a violation of this chapter for any person or entity to cause to be published any advertisement for the rental of any residential property in the Town of East Hampton, outside the incorporated villages located wholly or partially therein, without including the Rental Property Registration Number for said property.

§199-1-3. Registration Process.

A. Rental Property Registration Form. Rental Property Registration Forms shall be made in a sworn or affirmed writing by the property owner to the Building Department on a form provided therefore. To the extent the Town may make on-line registration available, applicants may utilize such system. Such application shall, at a minimum, set forth:

1. The names, physical addresses, mailing addresses and telephone numbers of the property owner(s);

2. The name, physical address, mailing address and telephone numbers of an agent designated by the owner to act in her stead, if any;

3. The street address and Suffolk County tax map designation of the rental property;

4. The length of tenancy and number of tenants, if known. Properties may be registered without a known tenancy or term. In the event a property is registered without tenant information, a Rental Property Update Form shall be filed when the

number of tenancy and term of tenancy becomes known, but in any event prior to commencement of a rental tenancy.

5. The number of rooms, the number of bedrooms, and the square footage of each respective bedroom in the rental property;

6. A copy of the latest Certificate of Occupancy for the property issued by the Town of East Hampton;

7. A completed and notarized Rental Property Inspection Checklist, in a form approved by the Town Building Department, sworn to by the property owner or a licensed architect, licensed engineer or licensed home inspector;

B. Rental Registration Number. Upon filing of a Rental Property Registration Form or Rental Property Renewal Form and it being deemed complete by the Principal Building Inspector, and the filing of the Registration Fee, each rental property will be assigned a unique Rental Registration Number for the rental property. _____

C. Change in conditions. In the event that any information required on the Rental Property Registration Form should change during the effective period of the Rental Registration, including, but not limited to the change in tenants, rental period or term, the commencement of a new rental period or term, the number of tenants, the number of bedrooms, the property owner shall immediately notify the Town by delivering a sworn or affirmed written notice of such change, along with any requisite fees for such Rental Property Registry update, to the Building Department who shall include such notice in the records for the rental registry.

D. Change in ownership. A change in ownership of the rental property shall void the Rental Registration Number. Any new owner will be required to file a new Rental Property Registration Form and provide a new registration fee. Upon the Building Inspector finding the form complete and receiving the registration fee, the Building Inspector shall assign a new Rental Registration Number.

E. Registration and Update Fees. All fees are non-refundable and the registration fee, renewal registration fee, and registry update fee shall be in an amounts established by the Town Board by Resolution and amended from time to time as the Board may deem appropriate. All fees shall be paid upon the filing of a Rental Property Registration Form, Rental Property Renewal Form or Rental Property Registry update.

F. Presumption of rental occupancy. Any single family residence, or any other premises subject to the provisions of this Chapter shall be presumed to be a rental property if such premises are not occupied by the legal owner thereof. This presumption shall be rebuttable.

G. Maintenance of Registry. It shall be the duty of the Principal Building Inspector to maintain the Rental Property Registry pursuant to this section. Such register shall be kept by tax map number, Rental Property Registration Number, street address showing the name and address of the owner, the number of conventional bedrooms in the single family residence at such street address, the number of persons allowed to occupy that residence pursuant to the provisions of §255-11-67(A)(9) of the Town Code.

H. Rental Registration Term. The registration of a rental property will expire two years after the date that the registration form is deemed complete by the Principal Building Inspector.

I. Rental Property Registration Renewal Form. Rental Property Registration Renewal Forms shall be made in writing by the property owner to the Building Department on a form provided therefore. To the extent the Town may make on-line registration available, applicants may utilize such system. Such application shall, at a minimum, set forth:

1. The names, physical addresses, mailing addresses and telephone numbers of the property owner(s);
2. The name, physical address, mailing address and telephone numbers of an agent designated by the owner to act in her stead, if any;
3. The street address and Suffolk County tax map designation of the rental property;
4. The length of tenancy and number of tenants, if known. Properties may be registered without a known tenancy or term. In the event a property is registered without tenant information, a Rental Property Update Form shall be filed when the number of tenancy and term of tenancy becomes known, but in any event prior to commencement of a rental tenancy.
5. The number of rooms, the number of bedrooms, and the square footage of each respective bedroom in the rental property;
6. A copy of the latest Certificate of Occupancy for the property issued by the Town of East Hampton;
7. A completed and notarized Rental Property Inspection Checklist, in a form approved by the Town Building Department, sworn to by the property owner or a licensed architect, licensed engineer, licensed home inspector;
8. Any previous rental registration number of the rental property.

§ 199-1-4. Presumptive evidence dwelling unit is being used as rental property.

A. The presence or existence of any of the following shall create a presumption that a dwelling unit is being used as a rental property:

(1) The property is occupied by someone other than the owner or his/her immediate family;

(2) Voter registration, motor vehicle registration, a driver's license, or any other document filed with a public or private entity which states that the owner of the rental property resides at an address other than the rental property

(3) Utilities, cable, 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) Persons residing in the dwelling unit represent that they pay rent to occupy the premises;

(5) A dwelling unit which has been published as being available for rent or lease;

B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 199-1-5. Presumptive evidence of multifamily occupancy.

A. It shall be presumed that a single- or one-family dwelling unit is occupied by more than one family if any two or more of the following features are found to exist on the premises:

(1) More than one mailbox, mail slot or post office address;

(2) More than one gas meter;

(3) More than one electric meter annexed to the exterior of the premises;

(4) More than one doorbell or doorway on the same side of the dwelling unit;

(5) More than one connecting line for cable television service;

(6) More than one antenna, satellite dish, or related receiving equipment;

(7) There are more than four motor vehicles registered to the dwelling;

(8) There are separate entrances for segregated parts of the dwelling;

(9) There are partitions or internal doors which may serve to bar access between segregated portions of the dwelling, including but not limited to bedrooms;

(10) There exists a separate written or oral lease or rental arrangement, payment or agreement for portions of the dwelling among the owner and/or occupants and/or persons in possession thereof;

(11) Any occupant or person in possession thereof does not have unimpeded and/or lawful access to all parts of the dwelling unit;

(12) Two or more kitchens, 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;

(13) There are bedrooms that are separately locked.

B. If any two or more of the features set forth in Subsection A(1) through (13) directly above, are found to exist on the premises by the enforcement authority or Town personnel engaged in the enforcement of the provisions of this chapter, a verified statement will be requested from the owner of the dwelling unit by the enforcement authority that the dwelling unit is in compliance with all of the provisions of the Code of the Town of East Hampton, the laws and sanitary and housing regulations of the County of Suffolk and the laws of the State of New York. If the owner fails to submit such verified statement, in writing, to the enforcement authority within 10 days of such request, such shall be deemed a violation of this chapter.

§ 199-1-6. Presumptive evidence of owner's residence.

A. It shall be presumed that an owner of a rental property does not reside within said rental property if any of the following sets forth an address other than that of the rental property:

(1) Voter registration;

(2) Motor vehicle registration;

(3) Driver's license; or

(4) Any other document filed with a public or private entity.

B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 199-1-7. Presumptive evidence of over-occupancy.

A. It shall be presumed that a bedroom is over-occupied if the number of mattresses in a bedroom exceeds the maximum number of occupants permitted for the bedroom pursuant to 255-11-67 (A)(9).

B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 199-1-8. General applicability of presumptions.

The presumptions set forth in §§ 199-1-4, 199-1-5, 199-1-6 and 199-1-7, subject to the limitations contained therein, shall also be applicable to the enforcement and the prosecution of building and zoning Town Code violations.

§199-1-9. Penalties for offenses.

A. A violation of this chapter by the owner(s) and/or tenant(s) shall be punishable as follows:

(1) A violation of §199-1-2(E) (Failure to publish Rental Registry Number) is hereby declared to be an offense punishable by a fine not less than \$150 nor more than \$1,500 or imprisonment for a period not to exceed 15 days, or both;

(2) A violation of any other section of this chapter is declared to be an offense punishable by a fine not less than \$3,000, nor more than \$15,000, or imprisonment not to exceed a period of six months, or both, for a conviction of a first offense.

(3) A second or subsequent violation of any section of this chapter within an eighteen-month period is hereby declared to be an offense punishable by a fine not less than \$8,000 nor more than \$30,000 or imprisonment not to exceed a period of six months, or both.

(4) For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of this chapter, other than §199-1-2(E), shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall apply. Each day's continued violation shall constitute a separate additional violation.

B. Additionally, in lieu of imposing the fines authorized in § 199-1-9(A), in accordance with Penal Law § 80.05(5), the court may sentence the defendant(s) to pay an amount, fixed by the court, no less than the applicable minimum statutory fine permitted under § 199-1-9(A) nor more than double the amount of the rent collected over the term of the occupancy.

C. Upon motion of the prosecuting attorney, the court may dismiss the violation or reduce the minimum fine imposed where it finds that the defendant had cooperated with the Town of East Hampton in the investigation and prosecution of a violation of this chapter. Factors which the court may consider include, but are not limited to, a report from the office of the Town Attorney confirming that the defendant did in fact cooperate and whether:

(1) The defendant reported the violation(s) to the Town of East Hampton;

(2) The defendant assisted the Town of East Hampton in investigating and prosecuting the violation(s);

(3) The defendant provided access to the rental property;

(4) The defendant promptly pursued his/her/its own rights under the lease to remedy the violation or adequately pursued an eviction proceeding;

(5) All violations existing at the rental property have been promptly remediated.

D. Where authorized by a duly adopted resolution of the Town Board, the Town Attorney may bring and maintain a civil proceeding, in the name of the Town, in the Supreme Court, to temporarily, preliminarily and permanently enjoin the person or persons conducting, maintaining or permitting said violation. The owner and tenants of the residence wherein the violation is conducted, maintained or permitted may be made defendants in the action.

E. If a finding is made by a court of competent jurisdiction that the defendants, or any of them has caused, permitted, or allowed a violation of this chapter, a penalty

to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$1,000 for each day it is found that the defendants, or any one of them, individually, collectively , or in conjunction with other(s) caused, permitted or allowed the violation.

SECTION 3. Authority.

The Town Board may enact this local law in order to protect the health, safety and welfare of its residents pursuant to New York State Constitution, §10 of the Municipal Home Rule Law and §130 of Town Law.

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 or provisions so adjudged to be invalid or unconstitutional.

SECTION 5. Effective Date.

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

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Fred Overton, Councilman
SECONDER:	Kathee Burke-Gonzalez, Councilwoman
AYES:	Burke-Gonzalez, Van Scoyoc, Overby, Overton, Cantwell