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ENACTMENT: ADOPT LOCAL INTRODUCTORY NO. 50 - 2014 AMENDING THE CODE OF THE TOWN OF HUNTINGTON, CHAPTER 160 (REGISTRATION OF PROPERTY)

Resolution for Town Board Meeting Dated: January 14, 2015

The following resolution was offered by: Councilwoman Edwards

and seconded by: **SUPERVISOR PETRONE**

WHEREAS, in amending its Code, the Town Board is exercising its statutory authority under §130 (3-a), (5), (11), (15) and (16) of the Town Law; §10(1)(ii)(a)(11) and (12) and §10(1)(iii)(d)(3) of the Municipal Home Rule Law, and any other applicable law, rule or statute in order to require owners of property to maintain minimum maintenance and safety standards, protect the occupants of non-owner occupied housing, preserve property values, and enhance the quality of life; and

THE TOWN BOARD having held a public hearing on the 9th day of December, 2014 at 7:00 p.m. to consider adopting Local Law Introductory No. 50-2014, to consider amending the Code of the Town of Huntington, Chapter 160 (Registration of Property), and due deliberation having been had,

HEREBY ADOPTS

Local Law Introductory No. 50-2014, amending the Code of the Town of Huntington, Chapter 160 (Registration of Property); as follows:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF HUNTINGTON, AS FOLLOWS:

LOCAL LAW NO. 5-2015
AMENDING THE CODE OF THE TOWN OF HUNTINGTON
HUNTINGTON, CHAPTER 160 (REGISTRATION OF PROPERTY)

Section 1. Amendment to the Code of the Town of Huntington, Chapter 160 (Registration of Property), as follows:

CHAPTER 160
REGISTRATION AND PERMITTING OF PROPERTY

ARTICLE I
[RENTAL REGISTRATION]

THE TEXT OF THIS ARTICLE IS DELETED IN ITS ENTIRETY

GENERAL PROVISIONS

§160-1. Legislative intent.

(A) The Town Board intends to preserve the health, safety and welfare of residents within the jurisdictional limits of the Town of Huntington exclusive of its Incorporated Villages by establishing a permitting system which will enhance the delivery of municipal services, such as sanitation and code enforcement services, and emergency services such as fire, water and police services when such services are needed, and effectively aid in the maintenance of the peace and good order and a tool for the establishment of efficient planning.

(B) In addition, the welfare and safety of our residents is threatened by rental properties that are occupied while infested with rodents and other creatures, lack sufficient heat, ventilation, light or other necessities, and are otherwise uninhabitable or blighted or threaten the quality of life in the community by creating nuisances or disrupting the peace and good order.

(C) The intent of this legislation is not to legalize the occupancy of any structure that predates the year 1934 or possesses a letter-in-lieu, nor is it an admission by the Town of Huntington that said structures are legally occupied or habitable.

(D) Nothing in this Chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, county or state, or extinguish the requirements of any local law, rule or statute of any agency having jurisdiction. In the case of a conflict between this Chapter and other regulations, the more stringent requirement shall prevail.

§160-2. through §160-10. (Reserved).

ARTICLE II
VACANT BUILDING REGISTRATION

* * *

§160-17. through §160-20. (Reserved).

ARTICLE III
RESIDENTIAL RENTAL PERMITS

§160-21. As used in this article, the following words shall have the meanings indicated:

DWELLING UNIT – Any residential area, space, or housing unit in any zoning district which is occupied for habitation as a residence by persons other than the owner or the owner’s immediate family.

IMMEDIATE FAMILY – For the purpose of this article immediate family shall mean as set forth in §198-2 (Family).

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MANAGING AGENT - Any individual, business entity, enterprise, trust, association, public utility or other legal entity responsible for the maintenance or operation of any residential rental property.

MIXED USE OCCUPANCY -- A building or portion thereof that is utilized or occupied for more than one use or purpose. Mixed use occupancies may include residential dwelling units.

OWNER - Any person, business entity, or association who, alone or jointly with others, holds a fee interest in real property with or without accompanying actual possession thereof; or a managing agent who is responsible for the maintenance and/or operation of real property; or as executor, administrator, trustee, receiver or guardian of an estate; or as a mortgagee who has secured a judgment of foreclosure and sale, or who is in possession, title or control of real property, including but not limited to a bank or lending institution, regardless of how such judgment, possession, title or control was obtained.

RENTAL PROPERTY – Dwelling unit(s) in one and two family homes in any zoning district which are occupied for habitation as a residence by persons other than the owner or the owner's immediate family, and for which a fee or other compensation is received by the owner or managing agent, directly or indirectly, in exchange for such residential occupation. The term “rental property” shall exclude properties used solely for non-residential purposes; buildings with mixed-use occupancy regardless of the number of dwelling units; one family homes which continue to be the primary and permanent residence of the owner but are leased or occupied by one other than the owner or owner’s immediate family for six (6) months or less in any calendar year; those having valid accessory apartment permits; any property owned and/or operated by the United States, the State of New York, the County of Suffolk, Town of Huntington and their respective agencies and political subdivisions; any property owned or managed by the Huntington Housing Authority, the Huntington Housing Authority Mortgage Banking Corporation, and the Huntington Community Development Agency.

§160-22. Rental permit required.

(A) Owner or managing agent. It shall be unlawful for the owner or managing agent to lease or rent any rental property or dwelling unit for which a valid rental permit has not been issued pursuant to this article. It shall be immaterial whether or not rent or any other consideration is paid or tendered to the owner or managing agent by the occupant of such dwelling unit or rental property.

(B) Real estate agency, real estate broker or agent. It shall be unlawful for any person, real estate agency, broker or agent to list, show or otherwise offer for lease, rent or occupancy any rental property or dwelling unit for which a valid rental permit has not been issued pursuant to this article. It shall be the duty of such person, broker or agent to verify the existence of a valid permit before listing, showing or otherwise offering for lease, rent or occupancy any rental property or dwelling unit.

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§160-23. Violation of article; presumptive evidence. The presence or existence of any of the following shall create a rebuttable presumption that rental property or a dwelling unit is rented. Nothing herein shall be construed so as to prevent persons from living together as a family unit with the owner.

- (1) The property is occupied by someone other than the owner, and the owner or managing agent of the property represents in writing or otherwise, to any person or establishment, business, institution or government agency, that he resides at an address other than the rental property.
- (2) Persons living in the rental property or dwelling unit represent that they pay rent to the owner of the premises.
- (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) Testimony by a witness with personal knowledge of the facts that a person other than the record owner resides at the premises.
- (5) There is more than one mailbox at the premises.
- (6) There is more than one gas meter at the premises.
- (7) There is more than one electric meter at the premises.
- (8) There are separate entrances for segregated parts of the building.
- (9) There are partitions or internal doors which may serve to bar access between segregated portions of the building including but not limited to bedrooms.
- (10) There exists a separate written or oral lease, or rental or occupancy agreement, or payment arrangement for portions of the rental property between the owner or managing agent and the different occupants and/or tenants of the property.
- (11) There exists an inability of any occupant or person in possession thereof to have unimpeded and/or lawful access to all parts of the rental property or rental 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.

§160-24. Term of permit. A rental permit and renewal thereof shall be valid for a period of one (1) year from the date of issuance unless sooner terminated.

§160-25. Application for rental permits.

(A) The owner or managing agent of rental property or a dwelling unit shall apply for a rental permit before the property or dwelling unit is advertised for rent or if the vacancy is not advertised then such permit shall be obtained before the premises are leased or occupied by one other than a member of the owner's immediate family. The rental permit number shall be noted on the advertisement. Failure to file an application or to apply within the specified period shall be deemed a violation of this article.

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(B) Transfer of property. In the event ownership of rental property is transferred to a new owner, the new owner or managing agent shall apply for a rental permit within thirty (30) days of the closing of title if any portion of the property is rented or leased at the time of closing. If an application is not filed as required by this article there shall be a presumption that the property is being utilized as rental property by the new owner(s) in violation of law. Failure to file an application or to apply within the specified period shall be deemed a violation of this article.

(C) Application. Applications for rental permits shall be on forms provided by the Department of Public Safety and signed by each owner or managing agent of the property. A non-refundable application fee of seventy-five (\$75.00) dollars per property shall be payable upon application. In no instance shall the filing of an application and payment of fees be construed as to exonerate the owner or managing agent of responsibility for compliance with the building, housing and maintenance requirements of any local, county, state or federal agency having jurisdiction. Each application shall include the following:

- (1) The information set forth in §160-13(A) as is applicable in the discretion of the Director of Public Safety, and §160-13(B); and
- (2) A copy of the latest deed to the property; and
- (3) Latest survey of the property, if available or a plot or schematic showing the size and location of the lot and all buildings and structures thereon; and
- (4) Government issued proof of residency of each owner with picture ID (driver's license, passport, etc.), and the address and contact number thereof; and
- (5) The name, address and contact number of the managing agent, if applicable; and
- (6) A signed and notarized certification in a form acceptable to the Director of Public Safety by each property owner or managing agent attesting to the total number of persons occupying each rental property or rental unit owned or managed by the registrant as of the date of registration; and
- (7) Location of the premises, the number of dwellings units located therein, and number of persons to be accommodated; and
- (8) A floor plan of each dwelling unit and the accommodations; and
- (9) A certification from a licensed professional engineer, licensed architect, or a Town ordinance/code enforcement officer attesting that that the property at issue is in compliance with the Huntington Town Code, and meets the requirements of all applicable county, state and federal laws, codes, rules and regulations. Nothing in this article, except in the case of an emergency pursuant to §160-36(B), shall be deemed to authorize the Town to conduct an inspection of any property without the consent of the owner or managing agent or occupant of the property in the absence of a warrant duly issued by a court of law.
- (10) Such other information and/or documentation deemed necessary by the Director of Public Safety.

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(D) Duty to amend. If the status of the information changes during the course of any calendar year, it is the responsibility of the owner or managing agent to submit such changes to the Department of Public Safety in writing within thirty (30) days of the occurrence of such change.

(E) Non-compliance. Failure of an owner or managing agent to secure a rental permit or to amend the information, or to do so within the period provided shall constitute a violation of this article.

§160-26. Issuance of permit; fees.

(A) Permit fee. A permit fee of four hundred and seventy-five (\$475) dollars per property shall be payable on or before a rental permit or renewal permit is issued.

(B) Late charges. A late charge equal to two times the amount of the permit fee, prorated for the period of delay, shall be charged to owners and/or managing agents who fail to apply for a rental permit or renew their permits on a timely basis.

(C) Compliance required. No permit or renewal thereof shall be issued unless the property is in compliance with all the provisions of the Code of the Town of Huntington, and meets the requirements of all applicable county, state and federal laws, codes, rules and regulations.

§160-27. Renewal of permit. A rental permit may be renewed by application to the Department of Public Safety as in the case of an original permit application, with payment of a non-refundable application fee of twenty-five (\$25) dollars and the production of any documents deemed necessary by the Director. All applications for a renewal of a permit shall be filed before the expiration of the original permit, and are subject to the late charges set forth in §160-26(B). A renewal permit fee of four hundred and seventy-five (\$475) dollars shall be payable before a renewal is issued.

§160- 28. through §160-35. (Reserved).

ARTICLE IV ADMINISTRATIVE REMEDIES AND PENALTIES

§160-36. Authority of the Town.

(A) Application for a search warrant. See, Chapter 71 of the Huntington Town Code.

(B) Emergencies. If, in the judgment of the Director of Public Safety, an emergency exists as when a condition or hazard is an immediate peril to the public health and safety, or a serious and immediate danger to person or property, he or she may enter any building or structure to inspect and investigate.

§160-37. Penalties for offenses.

(A) A violation of Article IV of this Chapter shall be punishable by a fine or penalty of not less than one hundred and fifty (\$150) dollars nor greater than seven hundred fifty (\$750) dollars and/or imprisonment for a period not to exceed 15 days; a conviction of a second offense, within a period of five (5) years of the first conviction, shall be punishable by a fine or penalty of not less than seven hundred and fifty (\$750) dollars nor greater than one thousand five hundred (\$1,500) dollars and/or imprisonment for a period not to exceed 15 days; and a conviction of a third or subsequent offense, within a period of five (5) years of the second conviction, shall be punishable by a fine or penalty of not less than one thousand five hundred (\$1,500) dollars nor greater than two thousand five hundred (\$2,500) dollars and/or imprisonment for a period not to exceed 15 days. Each week or part thereof the violation continues shall be deemed a separate and distinct offense punishable in like manner.

(B) In addition to the criminal penalties set forth herein or in other applicable law, rule or regulation, the Town Attorney is authorized to pursue civil and equitable relief, including but not limited to compensatory actions; civil penalties in the amount of up to five hundred (\$500) dollars per day, or any part thereof; an action to compel compliance with or to restrain by injunction the violation of this chapter; and other remedies which in the opinion of the Town Attorney may seem necessary and proper.

(C) No oversight or dereliction of duty on the part of the Town shall serve to legalize the use and/or occupancy of any property, building or structure which does not conform to the provisions of this chapter or other applicable local, state and/or federal law, rule, ordinance or regulation.

Section 2. Severability.

If any clause, sentence, paragraph, subdivision, section, or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law without such unconstitutional or invalid parts therein.

Section 3. Effective Date.

This local law shall take effect immediately upon filing in the Office of the Secretary of the State of New York.

ADDITIONS ARE INDICATED BY UNDERLINE
*** INDICATES NO CHANGE TO PRESENT TEXT
DELETIONS ARE INDICATED BY [BRACKETS]

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VOTE: AYES: 4 NOES: 0 ABSTENTIONS: 1

Supervisor Frank P. Petrone	AYE
Councilwoman Susan A. Berland	AYE
Councilwoman Eugene Cook	ABSTAIN
Councilman Mark A. Cuthbertson	AYE
Councilwoman Tracey A. Edwards	AYE

THE RESOLUTION WAS THEREUPON DULY ADOPTED.