

INCORPORATED VILLAGE OF GARDEN CITY

LOCAL LAW NO. 1-2023

A LOCAL LAW TO AMEND THE CODE OF THE VILLAGE OF GARDEN CITY, IN RELATION TO PROHIBITING CERTAIN TRANSIENT DWELLING USES.

**BE IT ENACTED**, by the Board of Trustees of the Village of Garden City:

The Code of the Village of Garden City is hereby amended, to add the following:

**§200-45.5 Transient Dwelling Units**

- A. **Transient Dwelling Unit:** an entire dwelling unit, or a room or group of rooms within a dwelling unit, made available to rent, lease, or otherwise assigned for an occupancy of less than thirty (30) consecutive days to one or more persons who are not the owner, or a family member of the owner of such dwelling unit. The term “Transient Dwelling Unit” shall include both owner-occupied and non-owner occupied dwelling units, and shall not include: (i) any lawfully permitted dormitories; (ii) any lawfully permitted hotel or motel rooms, bed-and-breakfast inns or lodging houses, or business establishment operating exclusively for and catering to transient clientele (that is, persons 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 business); and (iii) any lawfully operating medical, health care, nursing home, assisted living, or other similar facility.
- B. **Presumption of Use.** There shall be a presumption that a property or dwelling unit is a “Transient Dwelling Unit” if the following is found to exist:
  1. The property or dwelling unit is advertised or offered on any medium, including Airbnb, Home Away, VRBO, or similar short term rental website, as being available for occupancy for a period of less than thirty (30) days.
  2. The foregoing presumption may be rebutted by documentary or other evidence presented and satisfactory to the Superintendent of Buildings that the property or dwelling unit is not a “Transient Dwelling Unit.” In all such cases, the burden of proof to establish that a property or dwelling unit is not a “Transient Dwelling Unit” shall be upon the owner or occupant of the property. Any property aggrieved by a determination of the Superintendent of Buildings in this regard may appeal such determination to the Board of Appeals.
- C. **Applicability to Owners.** For the purposes of defining a “Transient Dwelling Unit”, the term “owner” shall mean and include any individual or individuals, partnership or corporation or other organization in possession of and having a fee interest in the real property where a dwelling unit is located. The term “owner” also shall include a corporation, limited-liability company, partnership, association, trustee or other business entity or nonbusiness forms of ownership.
- D. **Transient Dwelling Units prohibited.** No dwelling unit, whether single-family, multi- dwelling, or mixed residential use, shall be used or occupied as a Transient Dwelling Unit. No permit shall be issued for the use of any property within the Village as a Transient Dwelling Unit.
- E. **Application for Search Warrant.** The Superintendent of Buildings, or such Superintendent’s designated representative, is authorized to make an application to the Village Court or any court with

appropriate jurisdiction for the issuance of a search warrant in order to conduct an inspection of any premises which is subject to this section, where the owner or occupant of such premises refuses or fails to permit an inspection of such premises and where there is reasonable cause to believe that a violation of this section has occurred. Such application for a search warrant shall in all respects be made in conformance with, and shall comply with, the applicable laws of the State of New York and the United States.

- F. Warrantless inspections and searches prohibited. Nothing in this section shall be deemed to authorize the Superintendent of Buildings, or the authorized representative of such Superintendent, to conduct an inspection or search of any premises pursuant to this section without the consent of the owner or occupant of the premises or without a warrant duly issued by an appropriate court, except where such inspection or search may be permitted by law. Nothing in this section shall be deemed to limit the authority of the Superintendent of Buildings or the authorized representative of such Superintendent, to conduct a search without a warrant where such search is authorized by law.
- G. Civil Action. Village Counsel is authorized to institute a civil litigation to obtain and enforce any available remedy, including injunctive relief, in the event of any violation of this section. In any such litigation, the court may award the Village its reasonable attorneys' fees and expenses of such litigation.

Any local law or provision of the Code of the Village of Garden City in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance, or resolution prior to the effective date of this local law.

If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate any part of the local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.