

LOCAL LAW NO. 4 OF 2017
AMENDING CHAPTER 235 (ZONING) CODE OF THE TOWN OF BLOOMING GROVE PROHIBITING SHORT-TERM RENTALS OF RESIDENTIAL DWELLINGS

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BLOOMING GROVE AS FOLLOWS:

Section 1. Section 235-12.1 (Reserved) of Article IV, titled “Use Requirements,” of Chapter 235, titled “Zoning,” of the Town of Blooming Grove Code is hereby amended to read as follows:

§ 235-12.1. Prohibiting short-term rental of residential dwellings.

A. Legislative findings and intent. The Town Board of the Town of Blooming Grove hereby finds and declares:

- (1) Legislative findings. There is a critical and compelling need to regulate short-term rental use of residential dwellings located in the Town of Blooming Grove. Single- and two-family residential dwellings and the interior of apartments and similar dwelling units contained in multi-family buildings are not subject to the New York State Uniform Fire Prevention and Building Code (Uniform Code). Therefore, the Town Board finds and determines that the public health, safety and welfare of current and future Town residents will be adversely affected by the unregulated short-term rental of all or a portion of residential dwellings.

The Board further finds and determines that conditions arising from the short-term rental of dwelling units that are substandard or in violation of the Uniform Code, New York State Multiple Residence Law and applicable Town of Blooming Grove Code, pose hazards to life, limb and property of residents of the Town, exacerbate blight, contribute to excessive vehicle traffic and parking problems and overburden municipal services. The Board finds that current zoning law provisions are inadequate to halt the proliferations of such conditions and that public health, safety, welfare and good order and governance of the Town will be enhanced by the enactment of the regulations set forth in this Section, which regulations are remedial in nature and effect.

- (2) Intent. These regulation intend to protect the health and safety of Town residents and visitors as follows:

- (a) Prevent unregulated tourist or transient-oriented uses within all permitted and pre-existing nonconforming single-family, two-family and multi-family dwellings and in residential districts and traditional residential neighborhoods; and

- (b) Protect and preserve the Town’s appropriately balanced commercial and residential nature and unique, tranquil neighborhood character as enacted by the Town’s zoning, subdivision, property maintenance and related local laws; and

(c) Protect and ensure the safety of its current and future residents as well as those traveling to or visiting in the Town; and

(d) Prevent to the greatest extent practicable public safety risks, including but not limited to, noise, trash, traffic, and parking impacts associated with unregulated short-term rental of residential dwellings.

B. Definitions. Unless otherwise expressly stated, the following terms shall have, for the purpose of this Section, the following meaning:

(1) “Immediate family member” means parent, grandparent, child, grandchild, sibling, spouse, domestic partner, and any other immediate relative by blood, marriage, or adoption (i.e., cousin, niece, nephew, aunt, uncle, in-law, and step-child).

(2) “Living accommodation” mean a dwelling or premise or portion thereof with a bed or beds and bathroom facilities for the use of the person or persons occupying the dwelling, premises, or portions thereof.

(3) “Monetary compensation” means payment by cash, check, money order, credit card, bitcoin, barter, or other valuable consideration.

(4) “Occupant” means a person, other than the premises owner of record filed in the Orange County Clerk’s Office or an immediate family member of the premises owner, occupying living accommodations with the premises owner’s express or implied consent.

(5) “Offer to rent” means to personally or through an agent, referral service, representative or other entity or person, communicate or advertise, verbally, in writing, or through electronic means or otherwise, including the Internet, the availability for rental or similar use of any living accommodations, or to knowingly allow, commission, authorize, or permit such communication or advertisement.

(6) “Person” means any individual, partnership, corporation, joint limited liability company, limited liability company, trust or other entity, stock association, and includes any trustee, receiver, assignee, or personal representative thereof, including but not limited to any booking or reservation service, lawful lessees, and premises owners.

(7) “Premises” means immovable property owned or leased by the premises owner or lawful lessee, as applicable.

(8) “Premises owner” means a person having lawful ownership title or interest to the premises or an immediate family member of said person.

(9) “Short-term rental” means a dwelling unit that is rented, in whole or in part, to any person or entity for a period of less than 29 consecutive nights. “Rental” means an agreement, written or oral, granting use or possession of a residence, in whole or part, to a person in exchange for

monetary compensation. “Short-term rental” shall also mean the selling of shares, time-share ownership or the establishing of other ownership, tenancy or use arrangement in which a person obtains a right of occupancy in all or any portion of a residential dwelling unit.

(10) “Multiple dwelling” means a dwelling which is either rented, leased, let or hired out, to be occupied or is occupied as the permanent residence or home of three or more families living independently of each other and is occupied for permanent residence purposes. “Multiple dwelling” shall include “apartment” dwellings.

(11) “Apartment” means that part of a multiple dwelling consisting of one or more rooms containing at least one bathroom and arranged to be occupied by the members of a family, which room or rooms are separated and set apart from all other rooms within a multiple dwelling.

(12) “Transient” means a rental period of 29 nights or less.

C. Short-term rentals prohibited.

(1) It shall be unlawful for any person in any residentially zoned district within the Town to rent or license, or offer to rent or license, any living accommodations for monetary compensation or other valuable consideration for a period of less than 30 consecutive nights if the living accommodations are not lawfully licensed or permitted for such use under the Town Zoning Code.

(2) No occupant, visitor, or other may use, reside, dwell, or otherwise remain in any living accommodations for a period of less than 30 consecutive nights in exchange for monetary compensation or other valuable consideration.

(3) Any provision of a lease or rental agreement purporting to waive any provision of this Section is unlawful.

(4) Nothing in this Section shall be construed as invalidating or impairing the operation of, or the right of a landlord to restrict occupancy in order to comply with federal, state or local laws, regulations, ordinances, or codes.

(5) A person or entity (including a principal of any entity) who rents property from a premises owner or lawful lessee who is in violation of this Section shall be deemed to be an accessory to the offense provided herein.

(6) Any person who shall violate any provision of this Section shall first receive a warning of said violation from the Building Inspector. Each violation issued thereafter shall be subject to the penalties set forth in Section 235-84, titled “Penalties for offenses.”

(7) In addition to the criminal penalties contained herein, it shall be the right of the Town to seek injunctive relief in any civil court having jurisdiction over this matter to prevent any violation or violations of this Section.

D. Applicability.

- (1) The prohibition on short-term rentals shall apply to all single-family, two-family, and multiple-family residential dwellings within the Town.
- (2) The prohibition on short-term rentals shall not apply to a commercial hotel/motel business or bed-and-breakfast establishment operating exclusively as such and which is lawfully licensed or permitted for such use pursuant to the Town Zoning Code and regulated by applicable state, county and local law or ordinance.
- (3) The prohibition on short-term rentals shall not preclude the creation of a mortgages, lien, easement or other similar interest that encumbers a residential property as a whole to secure a loan or for any other legitimate purpose.

Section 2. Authority.

This local law is enacted by the Town Board of the Town of Blooming Grove pursuant to its authority to adopt local laws under the New York State Constitution and Section 10 of the Municipal Home Rule Law.

Section 3. State Environmental Quality Review Act.

Pursuant to 6 NYCRR 617.4(b)(2) this Local Law is classified as a Type I action.

Section 4. Severability.

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

Section 5. Repeal. All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 6. Effective date. This Local Law shall become effective immediately upon being filed with the Secretary of State.