

CHAPTER 106 (RENTAL REGISTRATION)

§106-1. Definitions.

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

CODE ENFORCEMENT OFFICER — The Superintendent of the Building Department and Ordinance Inspector , Deputy Building Superintendent, Village Code Inspector, Code Enforcement Officer, Zoning Inspector, Assistant Superintendent of Building Department, Senior Building Inspector, Building Inspector, Senior Fire Prevention Inspector, Fire Prevention Inspector, Electrical Inspector, Housing Inspector, Inspector of Street Maintenance, and Complaint Investigator .

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.

OWNER - Owner or any other person or persons or entity or entities having the right to possession of a dwelling unit, except:

1. Public Housing Authority organized as such under the laws of the State of New York;
2. A cooperative corporation whose offering statement or prospectus has been accepted by the New York State Attorney General for filing under General Business Law § 352-e; and
3. A not-for-profit corporation organized to own and operate a low-income or moderate-income senior-citizen housing project in conjunction with the New York State Division of Housing and Community Renewal.

Under this definition, a tenant can be an "owner" in relation to a subtenant.

RENT — A return, in money, property or other valuable consideration (including payment in kind or services or other thing of value), for use and/or occupancy or the right to the use and/or 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 UNIT — 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 dwelling unit under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use. There is a rebuttable presumption that any occupancy or use of a dwelling unit is a "rental occupancy" if the owner of the building containing the dwelling unit does not reside in the same building.

§ 106-2. Applicability; more restrictive provisions to prevail.

- A. Scope. This article shall apply to all rental dwelling units located within the Village, whether or not the use and/or occupancy thereof shall be permitted under the applicable use regulations for the zoning district in which such rental dwelling unit is located.
- B. Applicability. The provisions of this article shall be deemed to supplement applicable federal, state and local laws, ordinances, codes and regulations; and nothing in this article shall be deemed to abolish, impair, supersede or replace existing remedies of the Village, county, state or federal government, or existing requirements of any other applicable federal, state or local laws, ordinances, codes or regulations. In case of conflict between any provision of this article and any applicable federal, 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 article does not make legal any action or statement of facts that is otherwise illegal under any other applicable legislation.

§106-3. Rental occupancy permit required.

It shall be unlawful for the owner, owner’s agent, real estate agent or any person with apparent authority over any residential building, apartment building, multiple-residence building, senior-citizen multiple-residence building, motels, hotels, extended-stay residences, bed-and-breakfasts and any units contained therein to allow, permit or suffer the occupancy of any residential building, apartment building, multiple-residence building, senior-citizen multiple-residence building, motels, hotels, extended-stay residences, bed-and-breakfasts and any units contained therein, without having first obtained a rental occupancy permit pursuant to this article. It shall be immaterial whether or not rent or any other consideration is paid to the owner by the occupant of the dwelling unit.

§106-4. Application for rental occupancy permit.

- A. Application for a rental occupancy permit for a rental dwelling unit shall be made in writing to the Building Department on a form provided by the Building Department for that purpose.
- B. Such application shall be filed in duplicate and shall contain:

 1. The name, address and telephone number, if any, of the owner of the dwelling unit intended for rental occupancy.
 2. The street address and Tax Map description (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.
 3. The number of persons presently residing in or occupying such premises

intended for rental occupancy.

4. A description of the structure, including:
 - (a) The number of rental dwelling units in the structure;
 - (b) The number of persons intended to be accommodated by and to reside in each such rental dwelling unit and
 - (c) The number of rooms and the dimensions and use of each room in the structure, but outside of the rental dwelling units.
5. For each rental dwelling unit, a description of the unit, including:
 - (a) The number of rooms in the rental dwelling unit and
 - (b) The dimensions and use of each such room.
6. The name, address and telephone number, if any, of the managing agent or operator of each such intended rental dwelling unit.

C. Such application shall be signed by the owner of the premises, and the statements of such owner therein contained shall be verified under oath. If an owner is a natural person permanently residing outside of Nassau, Suffolk, Queens, Kings, New York, Richmond, and Bronx, the application may be signed on behalf of the owner and may be verified by a managing agent having personal knowledge of the facts.

D. Such application shall be accompanied by the following:

1. A property survey of the premises drawn to a 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.
2. A building permit application, properly prepared, for all proposed buildings, improvements and alterations to existing buildings on the premises, if any.
3. A copy of the certificate of occupancy or certificate of existing use. No application will be accepted without the submission of a valid certificate of occupancy or certificate of existing use.
4. A photograph of each dwelling unit.

E. In the case of a condominium unit, a scale drawing or floor plan of the condominium unit, in lieu of a survey or site plan shall accompany the application.

§ 106-5. Fees.

- A. Permit application fee. A nonrefundable permit application shall be paid to the

Village, as follows: 1.	One Bedroom Dwelling Unit	\$150.00
2.	Two Bedroom Dwelling Unit	\$225.00
3.	Three Bedroom Dwelling	\$262.00
4.	Four Bedroom Dwelling Unit	\$287.00

Each additional Unit Over 4 Bedrooms \$20.00/ per Bedroom. Said application fee shall be paid upon the filing of an application for a rental occupancy permit.

B. For a rental occupancy permit application submitted by a person 62 years of age or over, in connection with a single rental dwelling unit contained in the primary residence of the applicant, the permit application fee shall be one-half the amount indicated in the Village of Hempstead Fee Schedule. This fee provision shall not apply to applications for more than one rental dwelling unit or multiple dwelling units in the same structure, nor shall it apply to applications for rental multi-unit apartment complex dwelling units located in structures other than the primary residence of the applicant.

C. The fees 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.

§ 106-6. Review of application.

The Superintendent of the Building Department or his or her delegate 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 federal, state and local laws, ordinances, rules and regulations of the Village and that such rental dwelling unit(s) shall not constitute a dangerous building or buildings as defined in § 51-1 of the Village Code or create a nuisance to adjoining nearby property, the Superintendent of the Building Department or his or her delegate may issue the permit or permits.

§ 106-7. Term of permits.

- A. All permits issued pursuant to this article shall be valid for a period of two years from date of issuance.
- B. The holder any permit granted under this Chapter consents and subjects the holder hereof to the jurisdiction of any civil or criminal court located in Nassau County , New York , in any action or proceeding instituted under or pertaining to the provisions of this chapter.
- C. The holder of any permit granted under this Chapter waives the right to a trial by

jury in any action or proceeding instituted under or pertaining to the provisions of this chapter.

- D. Service upon the permit holder, by certified mail return receipt requested, at the address the permit holder lists as the address for notification on the permit of any summons, notice, order or process of any court shall be deemed sufficient service thereof.

§ 106-8. Register of permits.

It shall be the duty of the Superintendent of the Building Department or his or her delegate to maintain a register of permits issued pursuant to this article. Such register shall be kept by street address, showing the name and address of the permit holder, 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.

§ 106-9. Smoke detector device and carbon monoxide alarm.

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

§ 106-10. Inspections and Enforcement.

The Code Enforcement Officer is authorized to enforce this Chapter and make or cause to be made inspections to determine the condition of rental dwelling units. 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 the reasonable time or at such other time as may be necessary in an emergency for the purpose of performing duties under this article.

§ 106-11. Revocation of permit.

The Superintendent of the Building Department or his or her delegate shall revoke a rental occupancy permit where he or she finds that the permit holder has:

1. Caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit has been issued, for a period of 10 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, the Nassau County Fire Prevention Ordinance or a violation of this article or other chapter of the Village Code.
2. Failed to maintain the necessary requirements as outlined in this article, or occurrence of unlawful activities at or about the premises;

3. Died;
4. Transferred his/her/its ownership interest in the dwelling unit in question; and
5. Any other reason where the Superintendent of the Building Department or his or her delegate finds it is in the best interest of the community to revoke the permit due to health, welfare and safety concerns.

§106-12. Collection of rent.

The issuance of a rental occupancy permit for the premises, as required by this chapter shall be a condition precedent to the collection of rent for the use and occupancy of any dwelling unit.

§106-13. Broker's responsibility prior to listing.

It shall be unlawful and a violation of this article and an offense within the meaning of the Hempstead Village Code 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. In the event that a person convicted of a violation of §106-3 shall have been a real estate broker or sales person licensed by the State of New York at the time such violation was committed, it shall be the duty of the Superintendent of Buildings to transmit a record of such conviction to the Division of Licensing Services of the Department of State and to make complaint thereto against such license on behalf of the Village, pursuant to the provisions of the Real Estate Property Law.

§106-14. Offers to rent.

No person or business entity, including without limitation, an owner, real estate brokerage firm, real estate company, real estate broker and/or agent, shall solicit, advertise, cause, permit and/or allow another person or business entity to solicit, advertise, or publish to the general public or to a selected segment of the general public, a written offer to lease, hire or otherwise occupy a rental dwelling unit, within the Village of Hempstead, unless that offer or solicitation refers by number to a valid rental occupancy permit for the rental dwelling unit in question. For purposes of this section, "publish" means to promulgate to the general public or to selected segments of the general public, in a newspaper, magazine, flyer, handbill, mailed circular, bulletin board, sign or electronic media. Violation of this section shall be unlawful and an offense within the meaning of the Hempstead Village Code.

§ 106-15. Presumptions applicable to rental registration enforcement and prosecutions.

- A. Within the context of rental registration enforcement and prosecutions, the presence or existence of any of the following shall create a rebuttable presumption

that a premises is being used as a rental occupancy:

1. The property is occupied by someone other than the owner, and the owner 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 subject property;
2. 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;
3. There are separate entrances for segregated parts of the dwelling;
4. There are partitions or internal doors which may serve to bar access between segregated portions of the dwelling, including but not limited to bedrooms;
5. There exists a separate written or oral lease or rental arrangement, payment or agreement for portions of the dwelling among its owner(s) and/or occupants and/or persons in possession thereof;
6. Any occupant or person in possession thereof does not have unimpeded and/or lawful access to all parts of the dwelling unit;
7. Two or more kitchens each containing one or more of the following: a range, oven, hot plate, microwave or other similar device customarily used for cooking or preparation of food and/or a refrigerator;

8. A premise has been advertised in any newspaper, magazine, local advertising publication or posted or billed as being available for rent.
9. There is more than one mailbox at the premises;
10. There is more than one gas meter at the premises;
11. There is more than one electric meter at the premises;
12. There is more than one doorbell at the premises;
13. There are three or more motor vehicles registered to the dwelling and each vehicle owner has a different surname;
14. There are more than three waste receptacles, cans, containers, bags, or boxes containing waste from the premises placed for pickup at least twice during a weekly garbage pickup period; or
15. There is no electric meter annexed to the exterior of the premises.

B. Nothing herein shall be construed to prevent persons living together as a family unit, with the owner.

§ 106-16. Penalties for offenses.

A. Any person, association, firm or corporation which violates any provision of this article or assists in the violation of any provision of this article shall be guilty of a violation, punishable:

1. By a fine of not less than \$2,500 and not exceeding \$5,000 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 \$5,000 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second offense.
3. By a fine of not less than \$10,000 nor more than \$20,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the third or subsequent offense 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.

§ 106-17. Implementation.

This Local Law shall be effective immediately upon filing with the Office of Secretary of State. No violation of this article will be charged prior to April 30, 2009, and no violation of this article regarding failure to obtain a permit will be charged against a person or entity which:

1. Has filed the necessary application in proper form and in good faith, with all required information and attachments, on or before April 30, 2009;
2. Has consented to an inspection of the premises in question; and
3. Has not received a final determination on the application, for reasons over which the applicant has no control.

Severability.

If any clause, sentence, paragraph, subdivision, section or other part of this Local Law shall be for any reason 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 and/or invalid parts therein.