

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Red Creek
Town
Village

Local Law No. 2 of the year 20 18

A local law Establishing Residential Occupancy Permit Code
(Insert Title)

Be it enacted by the Village Board of Trustees of the
(Name of Legislative Body)

County
City of Red Creek as follows:
Town
Village

SECTION 1: PURPOSE

There is hereby adopted by the Village of Red Creek for the purpose of prescribing regulations governing rented dwelling units, apartments and tenements in the Village of Red Creek, a certain code as hereinafter set forth. This chapter shall hereinafter be known and cited as Local Law 2 of 2018 Establishing Residential Occupancy Permit Code.

SECTION 2: DEFINITIONS

Whenever used in this chapter, unless otherwise expressly stated or unless the context or subject material requires a different meaning, the definitions as contained in the New York State Uniform Fire Prevention and Building Code shall apply to the terms and provisions herein.

Dwelling Unit – Any room or group of rooms within a dwelling which are used or intended to be used by one or more persons for living and sleeping with or without facilities for cooking and eating.

SECTION 3: APPLICATION AND AVAILABILITY OF REMEDIES

If a provision of this chapter is found to be inconsistent with any provision of other chapters of the Village Code, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail. A greater penalty shall not be considered as more restrictive or a higher standard.

SECTION 4: INSPECTION AND CERTIFICATION REQUIRED; PERIOD OF VALIDITY

- A. All residential rental dwelling units shall be inspected and certified by the Code Enforcement Officer, which shall determine compliance with, administer and enforce all applicable provisions of this chapter, the Village Code, and the New York State Uniform Fire Prevention and Building Code (hereinafter “Uniform Code”). Prior to the re-occupancy of a rental dwelling unit, apartment or tenement, the landlord, managing agent or person in possession thereof shall secure from the Code Enforcement Officer a certificate indicating that the said dwelling unit complies with the requirements of this chapter. On or after October 1, 2018 Residential Occupancy Permits shall be valid for three years from the date of issuance for dwelling units covered by the New York State Multiple Residence Law. On or after October 1, 2018 Residential Occupancy Permits shall be valid for three years from the date of issuance for all other rental dwelling units.
- B. Nothing contained herein shall be construed or operate to invalidate an otherwise legally effective permit or certificate issued prior to October 1, 2018, except that such permit or certificate shall be valid only until:
 - a. October 1, 2018, or a change in the tenancy of the residential rental dwelling unit to which the permit or certificate relates, whichever first occurs, for dwelling units covered by the New York State Multiple Residence Law.
 - b. October 1, 2018 or a change in the tenancy of the residential rental dwelling unit to which the permit or certificates relates, whichever first occurs, for all residential rental dwelling units not covered in by the New York State Multiple Residence Law above.

SECTION 5: INSPECTION AND RESIDENTIAL OCCUPANCY PERMIT PRIOR TO RE-OCCUPANCY; NONCOMPLIANCE

- A. Except as otherwise provided herein, it shall be unlawful and a violation of this chapter to rent, lease, or otherwise allow the occupancy of any residential rental dwelling unit without the inspection and certification as required herein. It shall be the duty of the Code Enforcement Officer or its duly appointed agents to inspect a rental dwelling unit, apartment, or tenement whenever the same becomes vacant and prior to its being re-occupied, upon the physical or digital request of the owner or managing agent, for the

purposes of determining whether or not the dwelling unit complies with the provisions of this chapter.

- B. If, upon inspection, said premises do not comply with all applicable provisions of this code or the Uniform Code, the specific reasons for noncompliance shall be specified in writing, and a time limit not to exceed 30 days shall be directed for the correction of, or substantial effort to correct, the deficiencies noted. The notice of noncompliance shall be delivered personally or by mail within seven business days to the owner, agent, or person in charge at the address set forth in the Rental Dwelling Unit Registry and to any occupant who so requests. Occupants or proposed occupants of dwellings shall have the right to inspect the residential occupancy permit of the residential rental dwelling unit, apartment, or multiple residence in which they have an interest at no cost.
- C. On or after October 1, 2018 the Code Enforcement Officer shall have the right to inspect all or any part of the rental dwelling, including any unit or apartment, or entire multiple residence as required herein or upon complaint, except that the owner, agent, or person in charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Director of the Department, or his or her designee, in order to enable such inspection. The officials charged with conducting the inspection pursuant to this article shall be required to obtain a search warrant whenever an owner, agent, or person in charge refuses to permit a warrantless inspection of the premises.
- D. The officials charged with conducting the inspection shall make such inspection, access and circumstances permitting, within five business days of receipt of a request from the owner, agent or occupant.
- E. An owner or agent may file with the Code Enforcement Officer a request for such inspection and the issuance of a residential occupancy permit by regular mail or in person at the office of the Code Enforcer.
- F. Nothing in this article shall be construed to limit the right of the Code Enforcement Officer to inspect any property at any time. If, after issuing a residential occupancy permit, the Code Enforcement Officer receives a complaint alleging a violation of this chapter or other chapter of the Village Code, other than a violation that creates an imminent hazard to the public health or to the physical or mental health of the occupants of the rental property, the Code Enforcement Officer shall make a good faith effort to notify the owner or agent of the complaint, by either telephone or regular mail, before conducting an inspection under this chapter, and shall provide to the owner or agent one working day from the date the owner or agent receives the notice to explain what steps the owner or agent is taking to correct the violation. The Code Enforcement Officer may take steps necessary, by inspection or other means, to assure that the violation is corrected.

- G. No residential occupancy permit shall be issued and no inspecting under this article shall be conducted, unless and until the applicable fee (s) required under this chapter is paid in full to the Department.
- H. Upon request or complaint and payment of applicable fees if any, an inspection shall be conducted, but no residential occupancy permit shall be issued under this article unless the rental dwelling unit is an authorized use pursuant to Zoning or Land Use regulations and until all other applicable provisions and requirements of the Code of the Village of Red Creek are complied with and met.
- I. Upon request or complaint and payment of applicable fees if any, an inspection shall be conducted, but no residential occupancy permit shall be issued under this article unless the property is current and paid to date on its Village of Red Creek property taxes, including water and sewer rents, and any other Village liens.

SECTION 6: FEES

- A. The for a certificate of occupancy as set forth by The Village of Red Creek shall be Twenty-Five (\$25.00) Dollars for each unit. This certificate is good for three years. If during the initial three-year period, the property becomes vacant and needs to be re-inspected there will be a fee of Ten (\$10.00) Dollars for each unit for re-inspection.
- B. Failure of an owner or agent to appear within 20 minutes of a scheduled inspection ("no show") shall result in a fee of Twenty-Five (\$25.00) Dollars per unit scheduled for inspection.
- C. Cancellation of a scheduled inspection less than 24 hours before that scheduled inspection ("late cancellation") shall result in a fee of Twenty-Five (\$25.00) Dollars per unit scheduled for inspection.
- D. Should a unit fail inspection, the initial re-inspection shall be free of charge; however, each subsequent re-inspection thereafter until that unit passes shall result in a re-inspection fee of Ten (\$10.00) Dollars per unit being re-inspected.

SECTION 7: TRANSIENT-OCCUPANCY DWELLINGS

- A. An annual inspection is required for all dwellings within the Village of Red Creek that fall under the definition of a "Group B2; Multiple Dwelling - Transient Occupancy" as defined in Title 9 of the New York Codes, Rules and Regulations. Such dwellings include but are not limited to motels, rooming or lodging houses, dormitories, fraternities, travel trailers, etc.
- B. A fee of Two Hundred Twenty-Five (\$250.00) Dollars must be paid prior to the inspection being performed by the Code Enforcement Officer. All fees contained in the above section titled FEES B, C, and D apply as well.
- C. Transient Occupancy Dwellings must meet the minimum standards for occupancy must

comply with the New York State Uniform Code. Upon passing inspection, an annual permit to operate shall be granted. Operation without said permit after October 1, 2018, shall be a violation of this chapter and subject the owner, managing agent, or person in possession or charge of a transient occupancy dwelling to the penalties set forth in this Code.

SECTION 8: DISPLAY OF CERTIFICATE

Each unit shall prominently display in the public area of the said structure the certificate of occupancy required by this article.

SECTION 9: REGISTRATION OF LANDLORDS

- A. There shall be a Rental Dwelling Unit Registry. It shall be the responsibility of all landlords within the Village to register as such with the Code Enforcement Officer. The Code Enforcement Officer shall promulgate regulations and procedures to effectuate said registry and make same available to the public.
- B. Within the Rental Dwelling Unit Registry shall be a provision for registration of agents. All landlords who own rental dwelling units within the Village of Red Creek but live outside of Wayne County shall appoint an agent to serve and register said agent with the Code Enforcement Officer. The agent must live within Wayne County. Service of an appearance ticket as defined in the New York State Criminal Procedure Law upon said agent for service shall constitute good and sufficient service as if the landlord had been served himself within Wayne County.

SECTION 10: PENALTY

Except as specifically provided elsewhere in this Local Law, any violation of this Local Law is a misdemeanor punishable by a fine not exceeding One Thousand (\$1,000.00) dollars and/or a term of imprisonment not exceeding a period of one (1) year. Each week of continued violation shall constitute a separate offense.

SECTION 11: 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 judgement shall not affect, impair or invalidate to reminder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgements shall have been rendered

SECTION 12: EFFECTIVE DATE

This local law shall take effect immediately upon adoption and shall thereafter be filed with the Secretary of State pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2018 of the ~~(County)(City)(Town)~~ (Village) of Red Creek was duly passed by the Village Board of Trustees on August 8, 2018, in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.

~~3. (Final adoption by referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provision of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ——— (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ——— (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____ State of New York, having been submitted to the electors of the General Election of November __, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

SUSAN SAYLOR, VILLAGE CLERK

(Seal)

Date: _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF OSWEGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceeding have been had or taken for the enactment of the local law annexed hereto.

Allison J. Nelson
Town Attorney
Title

County
City
Town of Red Creek
Village

Date: _____