

## **LOCAL LAW 5-2018**

A Local Law amending Chapter 162 (Housing/Property Maintenance and Building Code Administration) of the Village of Ossining Code.

**BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:**

**Section 1.** Chapter 162 Article VII ("Commercial Occupancy") is added with new matter underlined.

### **162-47 Legislative Findings; Purpose**

The Village of Ossining seeks to encourage new businesses to come to the Village and prosper. To accomplish this goal, the Board of Trustees believes it is important that these new businesses obtain necessary information from the Building Department about code requirements. This Article institutes a new Change in Commercial Occupant Permit whereby the new business owner and the Village, through its Building Department can communicate to insure that the business operates in compliance with both state and local codes.

### **§ 162-48 Permit required for change in commercial occupancy.**

Prior to occupying any commercial space within any building in the Village of Ossining, a Change in Commercial Occupant Permit must be applied for and approved by the Building Department. If you are proposing a new store or business within the Village of Ossining, whether it involves a purchase or lease of a storefront, commercial space, or portion of an existing building, plans may be required to be presented to the Building Department for the utilization of such commercial space/building. Plans may be required even if there are no proposed alterations or renovations. A permit and plan may be necessary necessary so that Building Department personnel can confirm that the proposed business is permitted under the Zoning Code and that the intended use of the space/building complies with the New York State Fire Prevention and Building Code (Uniform Code), the New York State Energy Construction Conservation Code (Energy Code) and the Village of Ossining Code.

### **162-49 Application for permit.**

- (1) The application for a building permit, and its accompanying documents, shall contain sufficient information to permit a determination that the intended work is in accord with the requirements of the Uniform Code, Energy Code and the Village Code.
- (2) The form of the permit and application therefor shall be prescribed by the Director of Code Enforcement, Building Inspector or his/her designee. The application shall be signed by the owner of the building or his authorized agent, the owner of the new business and shall contain at least the following:

- (a) Full name and address of the owner and, if by a corporation, the name and addresses of the officers; is by a partnership, the names and addresses of the partners; if by a limited liability company, the name and address of the managing member;
  - (b) Identification and/or description of the land on which the work is to be done;
  - (c) Description of use or occupancy of the land and existing or proposed building (legal survey);
  - (d) Description of the proposed work;
  - (e) Two sets of plans and specifications for the proposed work; and
  - (f) The required fee.
- (3) The Director of Code Enforcement, Building Inspector and/or Assistant Building Inspector may waive the requirement for plans and specifications when the work to be done involves minor alterations.
- (4) The applicant shall notify the Director of Code Enforcement, Building Inspector and/or Assistant Building Inspector of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work has been determined to conform to the requirements of the Uniform Code, Energy Code and Village Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Building Department prior to the commencement of such change of work.

#### **162-50 Review of propose change by Director of Code Enforcement or Building Inspector**

If the Director of Code Enforcement, Building Inspector and/or Assistant Building Inspector finds after reviewing the proposed changes in commercial space that the proposed changes do not substantially conform to the requirements of the Village Code, Chapter 270, he/she shall refer the application to the Planning Department for referral to the Planning Board and/or Zoning Board of Appeals.

#### **162-51 Penalties**

The penalty for commencing work without obtaining the required change in commercial occupant permit shall be \$1000 or three times the cost of the permit whichever is greater.

**Section 2** Chapter 162, Article VIII ("Vacant Building Registry") is added with new matter underlined.

#### **162-52 Legislative findings; purpose.**

It is the finding of the Board of Trustees that buildings which remain vacant, with access points

boarded over, are unsightly, unsafe and have a negative effect on their surroundings. This is particularly troublesome in all neighborhoods. Unfortunately, many buildings, once boarded, remain that way for many years. The purpose behind this article is to establish a program for identifying and registering vacant buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of the vacant properties.

**162-53 Definitions.**

Unless otherwise expressly stated, the following terms shall, for the purpose of this article, have the meanings indicated:

**ENFORCEMENT OFFICER**

A duly authorized representative of the Building Department, the Police Department, and Department of Public Works.

**HABITABLE**

A building or space that meets or exceeds the New York State minimum requirements for human occupancy.

**OWNER**

Those shown to be the owner or owners on the records of the Village of Ossining, Department of Finance, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the premises. Any such person shall have a joint and several obligation for compliance with the provisions of this section.

**PERFORMANCE GUARANTY**

A bond, letter of credit, cash escrow or other acceptable form of guaranty, as determined by the Village Treasurer, to cover the Village's potential cost of correcting code violations or abating unsafe or imminently dangerous conditions. The sufficiency of such performance guaranty shall be determined by the Village Treasurer after consultation with the Corporation Counsel and other officials and departments of the Village of Ossining as appropriate.

**SECURED BY OTHER THAN NORMAL MEANS**

A building secured by means other than those used in the design of the building.

**UNOCCUPIED**

A building which is vacant or is not legally being used for an occupancy authorized by the owner.

**UNSECURED**

A building or portion of a building which is open, accessible or an attractive nuisance.

## **VACANT BUILDING**

Any building, structure or portion thereof designed or used for residential or commercial purposes which has been unoccupied or unused for a period of 60 days or longer. Additionally, a vacant building will include any building, structure or portion thereof that is unoccupied as determined by the appropriate Village, County or State agency.

### **162-54 Vacant building registration; fees.**

- A. The owner shall register with the Building Department not later than 30 days after any building located in the Village becomes a vacant building or not later than 30 days after being notified by the Building Department to register. The Enforcement Officer may identify vacant buildings through its routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry. The owner shall register the property annually with the Building Department. The renewal date shall be January 31 of each year.
- B. The registration shall be provided on forms provided by the Building Department and shall include, among other matters, the following information supplied by the owner:
- (1) A description of the premises, address, block and lot number;
  - (2) The names, addresses and phone numbers of the owners;
  - (3) The name, address and phone number of any person contracted by the owner for property management;
  - (4) The names, addresses and phone numbers of all known lien holders and all other parties holding an ownership interest in the property; and
  - (5) A telephone number where a responsible person and owner can be reached at all times.
- C. The owners shall submit a vacant building plan which must meet the approval of the Director of Code Enforcement, the Building Inspector or Assistant Building Inspector. The plan, at a minimum, must contain information from one of the following three choices for the property:
- (1) If the building is to be demolished, a demolition plan under a permit application filed with the Building Department, indicating the proposed time frame for the building to be demolished, an affidavit executed by the owner that he will assume all costs associated with the demolition, and a performance guaranty.
  - (2) If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided by the Building Department, if applicable, such plans must be filed along with the procedure that will be used to maintain the property in accordance with the Village's Building Code, and a statement of the reasons why the building will be left vacant and for what time period the building will be vacant, and a performance guaranty, all of

which must be acceptable to the Director of Code Enforcement, Building Inspector or Assistant Building Inspector.

- (3) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property and a performance guaranty shall be provided. The rehabilitation plan shall not exceed 365 days, unless the Director of Code Enforcement, Building Inspector or Assistant Building Inspector grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes and must be secured in accordance with the Village Code, and with the directions of the Director of Code Enforcement, Building Inspector or Assistant Building Inspector, during the rehabilitation or until a new Certificate of Occupancy or Certificate of Completion has been issued.
- D. All applicable laws and codes shall be complied with by the owner. The owner shall notify the Building Department of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Director of Code Enforcement, Building Inspector or Assistant Building Inspector.
- E. The owner and subsequent owners shall keep the building secured by any means necessary and/or required to keep the building safe and secured while properly maintaining said building at all times as provided for in this article and in article IX. Failure of the owner or any subsequent owners to keep the building secure and safe and/or maintain the building and premises that result in remedial action taken by the Village shall be grounds for the revocation of the approved plan and shall be subject to any applicable penalties provided by law.
- F. The new owners shall be required to register the vacant building with the Building Department within 30 days of any transfer of an ownership interest in a vacant building. The new owners shall comply with the approved plan, the performance guaranty, if required, and the timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the Director of Code Enforcement, Building Inspector or Assistant Building Inspector.
- G. Any person owning or having charge or control of any building which has been vacant for over 60 days shall remove all combustible waste and refuse therefrom and lock, barricade, guard continuously or otherwise secure all windows, doors and other openings in the building to prevent entry by unauthorized persons.
- H. In vacant or unoccupied buildings or portions thereof, all required sprinkler, standpipe and fire alarm systems and all component parts shall be maintained in operating condition at all times.
- I. Where any door, window or other means of ingress or egress from a vacant building or

structure has become broken or open, the property owner shall promptly make repairs and the Director of Code Enforcement, Building Inspector, Assistant Building Inspector or Code Enforcement Officer may order the building or structure repaired so as to comply with the requirements detailed in this article.

- J. Except for one locked exterior door, all openings shall be boarded up as detailed in subsection K when deemed by the Director of Code Enforcement, Building Inspector, Assistant Building Inspector or Code Enforcement Officer to be necessary for the protection of the public health, safety and welfare. Where the aforementioned code enforcement personnel do not deem it necessary to board up windows or other openings in vacant buildings, such buildings shall maintain doors and glass windows in good condition appropriate to the architecture of the building and shall provide appropriate window dressings where code enforcement personnel deem it necessary to shield the public's view into the vacant building. Appropriate window dressings shall not include newspaper, white window paint or other similar means of concealing views into the vacant building. All show windows and glazed doors shall be periodically washed and maintained in a clean and sanitary condition. All cracked or broken show windows or glazed doors shall be repaired or replaced as necessary.
- K. All openings shall be fitted with boards cut to actual size with new material of either plywood or pressboard having a minimum thickness of ½ inch and retained in place by affixing two inches by four inches top, bottom and center on the exterior in a neat and workmanlike manner. All plywood or pressboard used in boarding up shall be painted in a color and quality of paint subject to the approval of the Director of Code Enforcement, Building Inspector or Assistant Building Inspector.
- L. All storefronts shall be kept in good repair, painted where required, and shall not be permitted to become a safety hazard or nuisance. In the event that repairs to a storefront become necessary, such repairs shall be made so as to permanently repair the damaged areas. Any cornice visible above a storefront shall be kept painted and otherwise in good condition and repair.
- M. The owner or other responsible party for the maintenance of a vacant building shall take such steps as may be required to ensure that the building and any adjoining yard on the premises remains secure and does not present a hazard to adjoining properties or the public. Each floor area within the vacant building shall maintain at least one means of egress which complies with the New York State Fire Prevention and Building Code, as revised.
- N. The floor area of each vacant building shall be lighted by no less than a twenty-five watt light fixture.
- O. All signs and associated hardware shall be removed after a commercial occupancy becomes vacant in excess of 60 days.

P. Vacant building fees.

- (1) The owner of a vacant building shall pay an annual fee as set forth in Subsection G(3) for the period the building remains a vacant building. The fee shall be paid within 30 days after the building becomes vacant. If the fee is not paid within such time, the owner shall be subject to penalties and any additional fees that may be imposed by the court. The fee shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form and for the costs of the Village in monitoring the vacant building site.
- (2) The first annual fee shall be paid no later than 30 days after the building becomes vacant.
- (3) The following fees are hereby imposed:

<u>Property Type</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Each Subsequent Year</u>
<u>Residential</u>	<u>First unit \$400; each additional unit \$400</u>	<u>First unit \$1,000; each additional unit \$400</u>	<u>First unit \$1,000; each additional unit \$600</u>	<u>First unit \$2,000; each additional unit \$1,000</u>
<u>Commercial</u>	<u>\$2,000 or \$0.20 per square foot, whichever is greater</u>	<u>\$2,150 or \$0.30 per square foot, whichever is greater</u>	<u>\$3,000 or \$0.40 per square foot, whichever is greater</u>	<u>\$5,000 or \$0.50 per square foot, whichever is greater</u>

- (4) If the fee is not paid within 30 days of being due, the owner shall be subject to a penalty of \$200 per month and prosecution in court. If a plan is extended beyond 365 days, subsequent annual fees shall be due on the anniversary date. Any fee not paid at this time shall be subject to payment of an additional penalty of \$200 per month for each month the fee remains unpaid, such additional penalty coming due on the first day of each month. After six months, if the fee still remains unpaid, the penalty will increase by \$200 per month for each month the fee remains unpaid, until the penalty reaches the amount of \$4,000, at which point it will remain until the matter is resolved. If any penalty is not paid within 30 days of the due date, the owner shall be subject to prosecution in court.
- (5) The fee shall be paid in full prior to the issuance of any building permits, certificates of occupancy or certificates of completion, with the exception of any demolition permit.
- (6) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. If the fees are not paid prior to any transfer, the new owner shall pay the annual fee no later than 30 days after the transfer of ownership, and subsequent annual fees shall be due on the anniversary date of the filing of the registration form.

**162-55 Exemptions.**

- A. A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 45 days after the fire or extreme weather event if the property owner submits a written request for exemption to the Building Department. This written request shall include the following information supplied by the owner:
- (1) A description of the premises, address, lot and block;
  - (2) The names, addresses and phone numbers of the owners;
  - (3) A statement of intent to repair and reoccupy the building in an expedient manner or the intent to demolish the building;
  - (4) A performance guaranty.
  - (5) If a building is actively undergoing renovation or restoration under a building permit, the status of the building shall be reviewed at the time of a request for permit extension for inclusion in the registry.
- B. Any property on which a building permit has been received and is being actively developed shall be exempt from the registration requirement for a period of six months from the date of the written request for an exemption which has been submitted to the Building Department. If additional time is needed, the Building Department may grant one additional exemption by which time the work on the building shall be completed. The written request shall include the following information supplied by the owner:
- (1) A description of the premises, address, lot and block;
  - (2) The names, addresses and phone numbers of the owners; and
  - (3) A statement indicating the expected date of the completion of the development of the property.

**162-56 Inspections and reports.**

- A. The Building Department, Police Department, and Department of Public Works may inspect any premises in the Village for the purposes of enforcing and assuring compliance with the provisions of this article. Upon the request of the Enforcement Officer, an owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Enforcement Officer or his or her designees in order to enable such inspection, and the Enforcement Officer shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises.
- B. The Building Department shall do periodic inspections of each vacant building or unit. The



Building Department shall also submit a biannual report, no later than April 15 and October 15 of each year, to the Village Manager, listing all buildings declared vacant under the provisions of this article and the date upon which the buildings or units were declared vacant and whether a building plan has been filed. The report shall include a list of all previously declared vacant buildings which are no longer subject to the provisions of this article.

**162-57 Appeals.**

- A. The property owner may appeal any adverse decision of the Director of Code Enforcement, Building Inspector or Assistant Building Inspector under this article to the Vacant Buildings Review Board by filing a written request for review with the Director of Code Enforcement or Building Inspector, setting forth the reasons for the appeal, within 10 days after receipt of the determination.
- B. The appeal will be considered by the Vacant Buildings Review Board which shall consist of the Village Manager or his/her designee, the Village Engineer or his/her designee and the Corporation Counsel or his/her designee.
- C. A timely request for appeal shall stay any action of the Building Department until the Vacant Buildings Review Board has decided the appeal. If a request for appeal is not made within the ten-day period, the action of the Director of Code Enforcement Officer, Building Inspector or Assistant Building Inspector is final.
- D. The property owner shall be entitled to a hearing by the Vacant Buildings Review Board only if requested in the written request for review.
- E. The Vacant Buildings Review Board shall consider the evidence submitted by the property owner while reviewing the decision of the Director of Code Enforcement, Building Inspector or Assistant Building Inspector. The Board shall make its decision on the basis of the preponderance of the evidence. The Board must render a decision within 30 days after the request for an appeal is filed. The Board shall affirm, reverse or modify the action of the Director of Code Enforcement, Building Inspector or Assistant Building Inspector. The decision of the Board is final as to administrative remedies with the Village.

**162-58 Penalties for offenses.**

- A. A violation of any section of this article shall be treated pursuant to Village Code Chapter 1 Article III.
- B. When the Village obtains a judgment in any action against the owner, in addition to the appropriate methods of enforcement of the judgment established in the New York Civil Practice Law and Rules, such judgment for penalties shall be assessed and collected in the same manner as Village taxes.

**Section 3** Chapter 162 Article IX ("Outdoor Signs") has been added with new matter underlined.

#### 162-59 **Abandoned Signs**

- A. An abandoned sign is any sign which advertises, identifies or pertains to an activity no longer in existence for at least 60 days. This provision does not apply to seasonal activities during regular periods in which the activity is closed.
- B. Where a sign has been abandoned, the owner of the sign, or the owner of the building or premises in the sign owner's absence, shall be required to remove such sign when so directed by the Director of Code Enforcement, Building Inspector or Assistant Building Inspector. If such sign is not removed by the owner of the sign, or the owner of the building or premises in the sign owner's absence, the Department of Public Works shall remove the sign at the building or premises owner's expense.
- C. After the removal of said sign by the Department of Public Works, the Village Engineer shall file a certificate of the expenses thereof, together with a description of the property, including the section, block and lot number on the Official Tax Map of the Village of Ossining for which the expenses were made with the Village Treasurer and with the Assessor and shall send, by registered or certified mail, to the owner as his /her name appears on the tax rolls of the Village of Ossining, a bill for the expenses incurred. Upon the failure of said owner to pay the Village the cost of such expense by the next succeeding tax status date, the same shall be added to the tax rolls of the Village of Ossining for the next succeeding tax year and shall be considered a real estate tax due to the Village of Ossining on the parcel of property and may be enforced or collected in the same manner as all other real property taxes of the Village of Ossining.

**Section 4** Chapter 162 Article X ("Transfer of Ownership") is added with new matter underlined.

#### 162-60 **Transfer of Ownership**

No owner of any building, structure or other premises upon which any notice or order pursuant to this code has been served shall sell, transfer, grant, mortgage, lease or otherwise dispose of such property to another until compliance of the provisions of such notice or order has been secured and acknowledged by the Building Department; or until such owner shall furnish to the purchaser, transferee, grantee, mortgagee, or lessee, no less than ten (10) days prior to such sale, transfer, grant, mortgage or lease, a true copy of such notice or order and, at the same time, provide written notice to the Building Department of his intent to sell, transfer, grant, mortgage or lease, the name and address of such person, persons, or firms to whom or which the sale, transfer, grant, mortgage or lease is proposed and a verified acknowledgement that the owner has provided the purchaser, transferee, grantee, mortgagee or lessee with any outstanding notices or orders issued by the Building Department for the property. A purchaser, transferee, grantee, mortgagee or lessee who has been informed of the existence of any notice or order issued pursuant to the Village Code shall be bound thereby.

#### 162-61 **Enforcement; Penalties**

Where the owner described in section 162-60 is found to have failed to provide the notice required by that section, the following fines shall be imposed:

- 1) For a first offense, punishable by a fine of not less than \$1000 and not more than \$1500.
- 2) For a second offense, punishable by a fine of not less than \$2,000 and not more than \$3,000.
- 3) For all subsequent offenses, punishable by a fine of not less than \$5,000 and not more than \$7,500.

**Section 5** Chapter 162, Section 26 (“Additional Definitions”) is amended as follows with new matter underlined and deleted matter in [brackets]:

#### **CODE ENFORCEMENT PERSONNEL**

Includes the Code Enforcement Officers, the Director of Code Enforcement, the Building Inspector, [and] Assistant Building Inspector and their designees.

**Section 6** Chapter 162, Section 27 (“Code Enforcement Personnel”) is amended as follows with new matter underlined:

- (1) The Director of Code Enforcement, the Building Inspector and Assistant Building Inspector shall receive, review and approve or disapprove applications for building permits, certificates of occupancy, temporary or partial certificates of occupancy and operating permits, and the plans, specifications and construction documents submitted with such applications;

- (2) Upon approval of such applications, the Director of Code Enforcement, the Building Inspector and Assistant Building Inspector shall issue building permits, certificates of occupancy, temporary or partial certificates and operating permits, and include in building permits, certificates of occupancy, temporary or partial certificates of occupancy and operating permits such terms and conditions as the Building Inspector or Assistant Building Inspector may determine to be appropriate;

- (3) The Director of Code Enforcement, the Building Inspector and Assistant Building Inspector shall conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, temporary or partial certificates. Code Enforcement personnel (Director of Code Enforcement, Building Inspector, Assistant Building Inspector, Code Enforcement Officer and their designees) shall conduct inspections for operating permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under this chapter or elsewhere in this Code;

- (4) The Director of Code Enforcement, the Building Inspector, Assistant Building Inspector and their designees shall issue stop-work orders, where appropriate;

C. As detailed in § **162-26**, the term "Code Enforcement personnel" shall include the Village's Director of Code Enforcement, Building Inspector, Assistant Building Inspector, Code Enforcement Officer and their designees. All individuals so appointed as Code Enforcement personnel in the Village of Ossining must possess and maintain the training as required by the State of New York for their respective job responsibilities.

**Section 7** Chapter 162, Section 30 ("Stop-work Orders") is amended as follows with new matter underlined:

- A. Authority to issue. The Director of Code Enforcement, the Building Inspector, Assistant Building Inspector or their designee are authorized to issue stop-work orders pursuant to this section. Stop-work orders shall be issued to halt:
- (1) Any work that is determined by the Director of Code Enforcement, Building Inspector, Assistant Building Inspector or their designee to be contrary to any applicable provision of the Uniform Code, the Energy Code or the Village of Ossining Code, where applicable, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

**Section 8** Chapter 162 Article XI ("Residential Occupancy Restrictions") is added with new matter underlined:

**162-62 Prosecutions for illegal residential occupancies and overcrowding in dwellings.**

In all civil and criminal prosecutions brought for the enforcement of this Code's provisions with respect to the illegal use of any building for residential purposes or the illegal residential occupancy of any dwelling or dwelling unit by more families than the number of families permitted for such dwelling or dwelling unit under this Code, the following rebuttable presumptions shall apply:

- A. That any detached dwelling or dwelling unit which maintains more than one mailbox or mail receptacle, more than one gas meter, more than one electric meter, and/or more than one water meter is being used as the residence of two or more families.
- B. That any detached dwelling or dwelling unit which maintains more than two mailboxes or mail receptacles, more than two gas meters, more than two electric meters and/or more than two water meters is being used as the residence of three or more families.
- C. That any detached dwelling or dwelling unit which maintains any entrance or entrances thereto, which entrance or entrances have not been set forth on any plans approved by and on file with the Building Department is being used as the residence of two or more families.
- D. That any detached dwelling or dwelling unit which maintains any third or additional entrances thereto, which entrance or entrances have not been set forth on any plans

approved by and on file with the Building Department, is being used as the residence of three or more families.

- E. That any building which has been advertised in any newspapers, magazines, or advertising publications as being available for sale or rent for residential purposes, in whole or in part, which advertisement expressly or implicitly provides that such building or the dwellings or dwelling units therein contain rooms for rent, contain more than one separate dwelling living unit, or may be occupied by more than one separate family, is being used as a dwelling containing the number of rooms for rent, dwelling units, or families stated or implied in such advertisement.
- F. That any single-family dwelling or dwelling unit at which there are the following is being used for two or more families:
- (1) Permanent partitions or internal doors which have not been set forth on any plans approved by and on file with the Building Department, which may serve to bar access between segregated portions of the dwelling, including but not limited to bedrooms, or the inability of any occupant or person in possession thereof to have unimpeded and/or lawful access to all parts of the dwelling unit; and/or
  - (2) Two or more kitchens which have not been set forth on any plans approved by and on file with the Building Department, each containing one or more of the following: a range, oven, microwave, or other similar device customarily used for cooking or preparation of foods.
- H. That any two-family dwelling units at which there are the following is being used for three or more families:
- (1) Permanent partitions or internal doors which have not been set forth on any plans approved by and on file with the Building Department which may serve to bar access between three or more segregated portions of the dwelling, including but not limited to bedrooms; and/or
  - (2) Three or more kitchens which have not been set forth on any plans approved by and on file with the Building Department, each containing one or more of the following: a range, oven, microwave, or other similar device customarily used for cooking or preparation of foods.

**162-63 Effect of rebuttal of presumptions.**

The rebuttal of the aforesaid presumptions shall be an affirmative defense by the defendant that, notwithstanding the existence of such conditions, once such conditions have proven to the court, the subject building is not being used as a dwelling or the subject dwelling is not being used for more families than permitted under Chapter 270, Zoning, of the Code of the Village of Ossining.

**162-64 Demand for inspection of premises.**

A person charged with a violation of this Code as described herein may demand an inspection of the subject building or dwelling by the Building Department to rebut such presumption. Such demand shall be in writing addressed to the Director of Code Enforcement or Building Inspector. Code Enforcement Personnel shall prepare a report of the findings of the inspection together with photographs, if appropriate.

**162-65 Penalties for offenses.**

A. Notwithstanding any provision of this Code inconsistent herewith, for each code violation involving an illegal residential occupancy or an over-occupancy of a dwelling or dwelling unit, the owner and any person who is in charge of the subject building, dwelling, or dwelling unit at the time of the violation shall be liable to a fine of not less than \$1,000 nor more than \$3,500 for the first violation; for a second and any subsequent violation, the fine shall be not less than \$5,000 nor more than \$7,500.

B. Each day that a violation continues to exist shall constitute a separate and distinct violation.

**Section 9 Effective Date**

This local law shall take effect immediately upon filing in the Office of the New York Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.