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**DEPARTMENT OF STATE**  
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ANDREW M. CUOMO  
GOVERNOR

ROSSANA ROSADO  
SECRETARY OF STATE

May 5, 2017

Village of Poquott  
45 Birchwood Ave  
E Setauket NY 11733

**RE: Village of Poquott, Local Law #1-#4 2017; filed on 5/5/2017**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.ny.gov](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 473-2492



LOCAL LAW 1 OF 2017

A LOCAL LAW ESTABLISHING CHAPTER 123 OF THE  
POQUOTT VILLAGE CODE  
RENTAL REGULATIONS

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE  
INCORPORATED VILLAGE OF POQUOTT AS FOLLOWS:

Section 1.0 Title

This Local Law shall be entitled “Local Law of 2017 Creating Chapter 123 Rental Regulations of the Poquott Village Code.

Section 1.2 Enactment

Pursuant to Section 10 of the Home Rule Law and the Village Law of the State of New York, the Incorporated Village of Poquott, County of Suffolk and State of New York, hereby enacts by this Local Law of 2017, a Local Law of Poquott.

Section 1.3 Effective Date

This Local Law shall take effect on the filing of the approved Local Law with the Secretary of the State of New York, which shall be within twenty (20) days after its approval by the Board of Trustees of the Incorporated Village of Poquott.

Section 1.4 Purpose and Intent of Local Law

The Board of Trustees of the Village of Poquott determines that there exists in the Village of Poquott serious conditions arising from the rental of dwelling units or rental units that are substandard or in violation of the 2015 International Uniform Fire Prevention and Building Code New York State Supplement, and other codes and ordinances applicable within the Village of Poquott; in that those rental dwelling units and rental units are inadequate in size, overcrowded and dangerous; that such rental dwelling units and rental units pose hazards to life, limb and property of residents of the Village of Poquott and others; tend to promote and encourage deterioration of the housing in the Village; create blight, excessive vehicle traffic and parking

problems; and overburden municipal services. The Board finds that current Code provisions are inadequate to halt the proliferation of such conditions and that the public health, safety, welfare and good order governance of the Village of Poquott will be enhanced by enactment of the regulations set forth in this Chapter.

Section 1.5 Applicability

The provisions of this Chapter shall be deemed to supplement applicable State and local laws, codes and regulations. Nothing in this Chapter shall be deemed to abolish, impair, supersede or replace existing remedies or existing requirements of any other provision of state or local law or code or regulation. In case of conflict between any provision of this article and any applicable state or local law, 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 state of facts that is otherwise illegal, unlawful or unpermitted, or otherwise in contravention of any other applicable law, code, rule or regulation

Section 1.6 Definitions:

As used in this chapter, the following terms shall have the meanings indicated. Any definition of a stated term that exists in the 2015 International Building and Fire Prevention Code, New York State Supplement shall supersede the definition stated in this Chapter:

**BOARDING HOUSE or ROOMING HOUSE** - A building that provides sleeping accommodations, with or without compensation, for 16 or fewer persons, on either a transient or permanent basis, with or without meals, but without permanent cooking facilities for individual occupants.

**BUILDING INSPECTOR** - The Building Inspector or Deputy Building Inspector of the Village of Poquott.

**CODE ENFORCEMENT OFFICER** - Village Building Inspector, Deputy Inspector, Code Compliance Technician, Code Enforcement Official, Building and Fire Safety Inspector, Town

or Village Fire Marshal, Fire Chief, or other code enforcement official or person appointed by the Mayor and approved by the Board of Trustees to enforce the Poquott Village Code and other State and local codes and regulations.

**CONVENTIONAL BEDROOM** - A room designed as a bedroom or, as in the case of a studio apartment, a common room used for sleeping purposes. Rooms having other purposes, such as dens, living rooms or hallways, are not to be interpreted as "conventional bedrooms" or used for sleeping or living purposes. A room may not be converted to a conventional bedroom without the permission of the Building Department.

**DWELLING UNIT** - A structure or building, one family dwelling, or part thereof, which has either a kitchen or accommodation for cooking, and is occupied or to be occupied by one or more persons as a home or residence, excluding a boarding house or rooming house.

**FAMILY** - One or more persons related by blood, adoption or marriage, or a domestic partnership, living and cooking together as a single housekeeping unit, or a number of persons, not so related, but the factual and functional equivalent of the same, living and cooking together as a single housekeeping unit and as a relatively permanent household, and not as a framework for transients or transient living.

**IMMEDIATE FAMILY** - The immediate family of the owner of a housing unit consists of the owner's spouse, children, parents, grandparents or grandchildren, siblings, uncles, aunts, nieces, nephews, cousins and in-laws.

**KITCHEN** - Any assembly of cabinets, appliances, countertops or plumbing used in connection with the storage, preparation or cooking of food.

**NONCONFORMING BUILDING OR USE** - One that does not conform to the applicable building, zoning or other relevant regulations of the district in which it is situated.

**NONHABITABLE SPACES** - Space used as kitchenettes, pantries, bath, toilet, laundry, rest, dressing, locker, storage, utility, heater, boiler and recreation rooms, closets and other space for

service and maintenance of the building, and those spaces used for access and vertical travel between stories and specifically excluding any rooms used for sleeping, eating and cooking, other than kitchenettes. The presence of a bed or bed frame, or bedding materials in a room is presumptive evidence that the room is being used for sleeping purposes.

**OWNER** - Any person, partnership, corporation or other entity who, alone or jointly with others, shall have legal title to any premises, with or without accompanying actual possession thereof; or who shall have charge, care or control of any dwelling unit as a cooperative shareholder or as executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, title or control; including but not limited to a bank or lending institution, regardless of how such possession, title or control was obtained.

**RENT** - A return, in money, property or other consideration (including payment in kind or for services or other thing of value), for use and occupancy or the right to use and 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** - A dwelling unit established, occupied, used or maintained for rental occupancy as a one family dwelling, under or by virtue of a rental or lease agreement, verbal or written, or where any sum or thing is paid for occupancy or a charge is made for use and/or occupancy, or where occupancy is pursuant to a contract of sale or installment payment contract, or free of payment by the occupant where payment is made by another individual, organization or agency, or any other occupancy or arrangement for charge of any kind.

**RENTAL OCCUPANCY** - The occupancy or use of a dwelling unit by one or more persons as a home or residence under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use either in whole or in part.

**RENTAL PERMIT** - A permit which is issued upon application to the Village Building Department and shall be valid for 12 months from the date of issuance (Rental Permit)

## Section 2.0 General Provisions

### 2.1 Rental occupancy permit required; application.

A. 1. It shall be unlawful and a violation of this Chapter and an offense within the meaning of the Penal Law of the State of New York for any person or entity who owns or rents a dwelling unit in the Village of Poquott to use, establish, maintain, operate, let, lease, sublease, rent or suffer or permit the occupancy and use thereof as a rental occupancy without first having obtained a valid rental occupancy permit therefor. Failure or refusal to procure a rental occupancy permit hereunder shall be deemed a violation. Nothing within this section shall be deemed to permit an accessory apartment or to permit more than a one family dwelling to exist within the village or any other building or dwelling which does not conform with the residence district uses as defined in section 183-13 of the Poquott Village Code.

2. Presumption of rent. Any dwelling, dwelling unit, rooming house, rooming unit or any other premises subject to this Chapter shall be presumed to be rented for a fee and a charge made if said premises are occupied by other than the legal owner thereof. There shall not be a presumption of rent if the occupant or occupants is or are immediate family members of the owner of the subject premises, as defined in this Chapter.

B. Application for a rental occupancy permit for a rental dwelling unit shall be made in writing by the owner of the property to the Building Department on a form provided therefor.

Such application shall include, but not necessarily be limited to:

1. The name, street address, mailing address, email address and home, work and cell numbers of both the property owner and property manager if applicable;

2. The street address and Tax Map designation (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. A description of the structure, including the number of rental dwelling units in the

structure and the number of individual sleeping units contained in each dwelling unit.

4. The number of persons intended to be accommodated by, and to reside in, each such rental dwelling unit;

5. For each rental dwelling unit, a description of the dwelling, including the number of rooms in the rental dwelling unit and the dimensions of each such room.

6. A property survey of the premises, drawn to a scale not greater than 40 feet to one inch, 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.

7. A copy of the certificate of occupancy and or certificate of zoning compliance and any certificates of nonconforming use as recorded by the Incorporated Village of Poquott for the premises on which the rental dwelling unit intended for occupancy is located.

8. Each application shall be executed by and sworn to by the owner of the premises and shall include the declaration that there are no existing or outstanding violations of any state, county, or local laws, rules or regulations pertaining to the property.

## 2.2 Application review; inspection of premises.

A. The Building Inspector, or his designee, shall review each application for completeness and return incomplete applications or advise the owner that the application is complete within two weeks of receipt of the application by the Village. A determination that an existing or outstanding violation of any state, county, or local law, rule or regulation exists at the property shall result in an automatic rejection of said application until the existing matter has been corrected and/or adjudicated.

B. Within 30 days of receiving notice from the Village of Poquott of receipt of a complete application, the owner of the rental dwelling unit shall arrange for an inspection of the rental dwelling and the premises in which it is located by a Code Enforcement Officer employed



by the Village to ensure that the structure and the dwelling units contained therein meet all applicable state and local laws regarding housing, sanitary, building, electrical and fire codes, rules and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code. If access is refused or cannot be obtained, the Village shall have the right to deny the rental occupancy permit until such time as the owner complies.

C. Prior to any inspection, the applicant must pay a registration fee as described in section 5.1 of this chapter.

D. Upon completion of the inspection by a Village Code Enforcement Officer, he shall issue findings in a written report, the format of which will be provided by the Village Building Department.

E. The inspection and report shall be completed and filed with the Village Building Department within 120 days of the notice of completion of the application. If the report states that the proposed rental dwelling unit, as well as the premises in which the same is located is within compliance with all applicable state and local laws, rules and regulations and that such rental dwelling unit does not create an unsafe or dangerous condition, the Building Inspector or his designee shall issue the permit, which shall state the name and address of the owner of the subject property, the maximum number of occupants and the number of conventional bedrooms for the structure.

F. If during an inspection, there are found to be violations of the NYS Building and Fire Code or violations of Village Code, the Code Enforcement Officer shall not issue the rental property permit, and shall issue orders to remedy or appearance tickets for all such violations.

G. Nothing in this section shall preclude the Village Code Enforcement Officer from conducting an inspection with consent of the owner of the rental dwelling unit, at times other than stated in this section, when the Code Enforcement Officer has reason to believe that a violation exists.

### 3.0 Term and Registration of Permits

3.1. All permits issued pursuant to this article shall be valid for a period of one year from date of issuance.

3.2. If rental dwelling property's ownership is transferred, the new owner of the property must notify the village and complete a new application permit, if such property is to be rented.

3.3. It shall be the duty of the Village Clerk 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 permittee, 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

### 4.0 Application and Renewal

A. A renewal application for a rental occupancy permit for a rental dwelling unit shall be made in writing by the owner of the property to the Building Department on a form provided therefor on or 90 days prior to the expiration date of any valid rental permit. A renewal rental permit shall contain a copy of the prior rental permit application. Such renewal application shall contain a signed statement setting forth the following:

1. That there are no existing or outstanding violations of any state, county, or local law, rule or regulation pertaining to the property. A determination that an existing or outstanding violation of any state, county, or local law, rule or regulation exists at the property shall result in an automatic rejection of said application until the existing matter has been corrected and/or adjudicated.

2. That there are no changes to any information as provided on the prior valid rental permit application.

B. Prior to the issuance of a renewal rental permit, the applicant must pay a registration fee as described in section 5.1 of this Chapter and arrange for an inspection of the

rental dwelling and the premises in which it is located by a Code Enforcement Officer employed by the Village that the structure and the dwelling units contained therein meet all applicable State and local laws codes and regulations. If access to the rental dwelling is refused or cannot be obtained, the Village shall have the right to revoke or deny the rental property permit. If there are code violations or violations of this chapter, the Village shall not issue the Rental Permit, and shall issue orders to remedy or appearance tickets for all such violations.

C. In the event of the issuance of appearance tickets, a Rental Permit shall not be issued to the owner until there has been a final disposition of the violations which are the basis for the appearance ticket or tickets before the Village Court and the conditions remedied or a determination made by the Court that no violation had been committed.

D. If a property owner knowingly rents a rental dwelling that is found to be without one or more of the following: running water, heat or heat source, electricity, sanitary facilities, windows in sleeping spaces, cooking facilities, smoke and carbon monoxide detectors or there is the presence of black mold in the rental dwelling, the rental dwelling may not be rented until the condition is remedied and a re-inspection indicating that the problem or problems have been resolved has been completed. If there are current tenants, they must be vacated in accordance with New York State Law.

E. The Village shall not accept, review or approve any renewal rental applications for rental dwellings wherein the prior rental permit expiration date has passed. If the expiration date has passed, the application will be considered a new application not a renewal application and the owner must file a new application.

#### 5.1. Fees

A nonrefundable annual permit application fee as set from time to time by resolution of the Board of Trustees shall be paid, upon filing an application for a rental occupancy permit or renewal application, in accordance with the schedule of rental dwelling unit fees. A copy of said

fees shall be kept on file in the office of the village clerk.

6.1. Revocation of permit.

A. The Code Enforcement Officer may recommend to the Board of Trustees that a Rental Permit should be vacated where he or she finds that the holder of the Rental Permit has caused, permitted, suffered or allowed to exist and remain upon the premises for which the Rental Permit was issued for a period of 30 days or more after written notice has been given to the holder of the Rental Permit or the managing agent of such rental dwelling unit, a violation of the 2015 International Uniform and Fire Prevention and Building Code or a violation of this Chapter or another Chapter of the Poquott Village Code or in any such case where the property owner refuses access to the Code Enforcement Officer for an inspection as required in section 2.2 (B) of this Chapter.

B. Upon the recommendation of the Code Enforcement Officer and after written notice by certified mail to the owner, the Poquott Village Board of Trustees shall hold a public hearing on such recommendation within 60 days after receiving the recommendation, and after such hearing the Board of Trustees shall make written findings, a conclusion and a decision.

7.1. Miscellaneous Violations

A. No owner shall cause, permit, suffer or allow to exist any condition at a rental dwelling or structure, or exterior property, which is a violation of this local law, the Poquott Village Code, the laws of Suffolk County, or the laws of the State of New York, including but not limited to the 2015 International Uniform Fire Prevention and Building Code, New York Supplement, and any amendments and or revisions made thereto.

8.1 Boarding house or rooming house prohibited.

A. It shall be unlawful and a violation of this article and an offense within the meaning of the Penal Law of the State of New York for any person or entity who owns or rents a dwelling unit in the Village of Poquott to use, establish, maintain, operate, let, lease, sublease, rent or

suffer or permit the occupancy and use thereof as a boarding house or rooming house as defined in this chapter.

B. It shall be presumed that a building is being used as a boardinghouse or rooming house if any two or more of the following features or states of facts are found to exist by the Building Inspector or any person authorized to enforce or investigate violations of the Code of the Village of Poquott or any laws, codes, rules or regulations of the State of New York or from other competent evidence:

1. Separate written or oral leases or rental arrangements, payments or agreements for portions of the building among its owner(s) and occupant(s);
2. The inability of any occupant to have lawful access to all parts of the building;
3. That the structure shows evidence of an entrance(s) that is not set forth on plans maintained or approved by the Building Department and that the Code Enforcement Officer has cause to believe is unauthorized.
4. Partitions or internal doors with or without keyed locks that may serve either to bar access between segregated portions of the building, or to subdivide existing bedrooms into separate bedroom spaces, including but not limited to a basement, living room or bedroom(s);
5. Two or more kitchens, or kitchen-type areas, each of which contains a range, oven, refrigerator, microwave or other cooking apparatus;
6. The installation or use of portable kitchen appliances, including but not limited to hotplates, microwaves or a refrigerator in bedrooms or other non-kitchen areas
7. The conversion of nonhabitable space or habitable space to bedroom space or additional bedroom space;
8. Used or available parking spaces in excess of 10% of the total lot area
9. Two or more electrical or other utility meters; or
10. Two or more mailboxes and/or mail slots

11. Two or more satellite dishes

12. Evidence that garbage, septic or water usage exceeds the reasonable estimate of such use for the use permitted for the premises;

9.1 Search warrant application

A. The Building Inspector or Code Enforcement Official of the Village of Poquott or his designated representative is authorized to make application to the District Court or Supreme Court of Suffolk County, or any court of competent jurisdiction, for the issuance of a search warrant in order to conduct an inspection of any premises covered by this Chapter where the owner refuses or fails to allow an inspection of its rental premises and where there is reasonable cause to believe that a violation of this chapter has occurred. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York.

10.1 Broker's/Agent's responsibility.

A. Broker's/Agent's responsibility prior to listing. It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any broker or agent to list, solicit, advertise, exhibit, show or otherwise offer for lease, rent or sale on behalf of the owner any dwelling unit for which a current rental permit has not been issued by the Village Building Inspector. It shall be the broker's or agent's duty to verify the existence of a valid rental registration before acting on behalf of the owner of a property.

B. It shall be unlawful and a violation of this chapter to accept a deposit of rent or security, or a commission, in connection with the rental of a rental dwelling unit located within the Village of Poquott where no valid rental registration has been issued as required under this chapter.

C. It shall be unlawful and a violation of this article, and an offense within the meaning of the Penal Law of the State of New York, for any real estate broker or agent to list, advertise, show or otherwise offer for lease, rent or sale on behalf of the owner any residential dwelling in

a manner inconsistent with the use reflected on the certificate of occupancy, certificate of zoning compliance, certificate of existing use or special permit issued for the premises. It shall be the real estate broker's or agent's duty to verify the legal status of the premises before acting on behalf of the owner.

D. In the event that a person convicted of a violation of this section shall have been a real estate broker or salesperson licensed by the State of New York, at the time such violation was committed, the Village Clerk shall transmit a record of such conviction to the Division of Licensing Services of the Department of State and make complaint.

11.1. Penalties for offenses.

Any person, association, estate, trust, firm or corporation or other entity which violates any provision of this article or assists in the violation of any provision of this article shall be guilty of a violation as that term is defined in the New York Penal Law and which is punishable:

A. The first violation of this Chapter within an eighteen (18) month period by the owner(s) and/or tenant(s) shall be punishable by a fine of not less than \$ 500 nor more than \$1,500.

B. The second violation of this Chapter within an eighteen (18) month period shall be punishable by a fine of not less than \$1,000 nor more than \$2,500.

C. The third violation of this Chapter within an eighteen (18) month period shall be punishable by a fine of not less than \$1,500 nor more than \$5,000.

D. Each day that a violation of this Chapter should exist shall constitute a separate violation of this Chapter.

E. For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of this Chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply. Each day's continued violation shall constitute a separate additional violation.

F. A violation existing at the premises shall be a violation by both the tenant and the owner and at the sole discretion of the Village either the tenant or the owner or both the tenant and the owner may be charged with and prosecuted for the existence of a violation.

G. Additionally, in lieu of imposing the fine authorized by this Chapter, in accordance with Penal Law § 80.05(5), the court may sentence the defendant(s) to pay an amount, fixed by the court, not exceeding double the amount of the rent collected over the term of the occupancy.

H. The court may dismiss the violation or reduce the minimum fine imposed where it finds that the defendant has cooperated with the Village of Greenport in the investigation and prosecution of a violation of this Chapter.

I. Where authorized by a duly adopted resolution of the Board of Trustees, the Village Attorney may bring and maintain a civil proceeding, in the name of the Village, in the Supreme Court, to permanently enjoin the person or persons conducting, maintaining or permitting said violation or for other relief as may be appropriate or to take such other civil action as may be necessary to correct, prevent or remove a violation or unsafe and hazardous condition. The owner and tenants of the residence wherein the violation is conducted, maintained or permitted may be made defendants in the action. The commencement of a civil proceeding by the Village shall not be deemed or construed to be a waiver by the Village of the right to bring an action for prosecution or enforcement of the violation and the fines and penalties under this Section or as otherwise may be applicable under the law and the election of either a prosecution or civil proceeding by the Village shall not be exclusive of any other remedy. The Village shall be entitled to an award of all costs in the proceeding, including but not limited to administrative, engineering, filing, and other costs and legal fees, and to bring a separate action for those costs as may be necessary.

J. The Village shall have the right, after the determination by the Building Inspector,



or other appropriate official or employee of the Village, that a dangerous, hazardous or unsafe condition exists on a premises that is subject to this Chapter, after the expiration of ten (10) calendar days from the date of the mailing of written notice to the owner and the occupant served by regular and certified mail return receipt requested, to enter the premises and cure, correct or repair the dangerous, hazardous or unsafe condition, and all costs and expenses associated with that action by the Village, (including administrative, engineering and professional fees in the amount of 25% of the actual costs and expenses incurred in curing, correcting or repairing the condition), shall be reimbursed by the owner of the property to the Village, and in the event that the amount has not been paid to the Village within ten days of the date of billing, the amount shall become a lien on the property and billable in the next Village real estate tax bill for that property. The notice required in this section shall not prejudice or affect any other right that the Village may have under the law to address or remedy a dangerous, hazardous or unsafe condition, including the right to immediately enter the property to correct a condition that is an imminent danger to life, property or public safety.

{NOT TO BE PRINTED IN CODE ---- RECOMMENDED FEES}

<u>Type of Dwelling</u>	<u>Fee</u>
<u>One bedroom</u>	<u>\$95</u>
<u>Two bedrooms</u>	<u>\$160</u>
<u>Three bedrooms</u>	<u>\$220</u>
<u>Four bedrooms</u>	<u>\$285</u>
<u>More than four bedrooms</u>	<u>\$345, plus \$100 for each bedroom in excess of four</u>