

(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~~

Town of New Paltz

~~Village~~

Local Law No. \_\_\_\_\_ of the year 2019

A local law TO Amend the Code of the Town of New Paltz to Add A New Chapter 93, "Landlord and Tenant" to the Code of the Town of New Paltz

Be it enacted by the Town Board of the

~~County~~

~~City~~

Town of New Paltz as follows:

~~Village~~

**Section 1.** The Code of the Town of the Town of New Paltz is hereby amended to add a new Chapter 93, "Landlord and Tenant," to read as follows:

**ARTICLE I: SECURITY DEPOSITS**

§ 193-1. **Purpose.**

- A. The Town of New Paltz has a significant landlord/tenant population;
- B. Fair and equitable laws regarding landlord-tenant relations are a matter of public welfare;
- C. Prompt, reasonable return of security deposits is an important factor in tenants being able to obtain subsequent housing; and
- D. The issue of return of security deposits is a source of potential conflict between landlords and tenants which may result in a burdensome effect on the court system.

§ 193-2. **Ownership of security deposit; trust provisions.**

Whenever a tenant shall deposit with the landlord a security deposit, such deposit, or any portion thereof, until returned to the tenant or lawfully applied for obligations of the tenant to the

landlord, shall continue to be the money of the tenant and shall be held in trust by the landlord with whom such deposit shall be made and shall not be mingled with the personal moneys or become an asset of the landlord.

§ 193-3.       **Notification to tenant.**

Whenever a tenant shall provide to the landlord a security deposit, the landlord shall provide to the tenant a written receipt for the security deposit and shall further inform the tenant, in writing, of the location where the deposit is held; if the deposit is being held in a banking organization, the name and address of the banking organization in which the security deposit is being held; and a statement as to whether or not the deposit is being held in an interest-bearing account.

§ 193-4.       **Obligation of tenant to clean premises.**

Upon the termination of the tenancy or at the time that a tenant surrenders possession of the residential unit, whichever occurs later, the tenant shall have placed the residential unit in an overall clean condition as it was when the tenancy commenced, excepting normal wear and tear.

§ 193-5.       **Return of security deposit landlord to tenant.**

A. Within twenty-one (21) days after the termination of tenancy or the surrender of the premises, whichever occurs later, the landlord shall return to the tenant the full amount of security deposited by the tenant with the landlord or, if there is actual cause for retaining the security deposit or any portion of it, the landlord shall provide to the tenant a written statement specifying the reasons for such retention, including a good-faith estimate of the costs to be incurred for each item of damage or if said damage has already been repaired, documentation (e.g. receipts, invoices) of the costs incurred for each item of damage. The written statement specifying the reasons for the retention of any portion of the security deposit shall be accompanied by a full payment of the difference, if any, between the security deposit and the amount retained. Failure to return the security deposit or provide the aforesaid written statement within twenty-one (21) days of termination of the tenancy or surrender of the premises shall preclude the landlord from any right to retain all or a portion of the security deposit unless good cause is shown for said failure by landlord. Nothing contained in this section shall preclude the landlord from retaining all or a portion of the security deposit to cover the costs of storing and/or disposing of unclaimed property, for nonpayment of rent and for nonpayment of utility charges which the tenant was required to pay directly to the landlord.

B. If there is a provision in a rental agreement that a tenant is responsible to reimburse or apply from a security deposit any amounts due as the result of any violations issued to the landlord pursuant to the New Paltz Village Code or the New York State Uniform Fire Prevention and Building Code (the Uniform Code) for the property or residential unit being rented as a result of the actions of tenant or members of his/her household or their invitees or guests, it shall be the landlord's responsibility to give the tenant notice of such violation in a timely fashion as a condition to enforce this provision, and to help the tenant correct and prevent the condition for which the violation was issued. Timely notice shall be no later than twenty-one (21) days from the date the violation is sent to the landlord from the

municipal board, body, agency or official having jurisdiction. Failure to provide such notice shall serve as the landlord's waiver of reimbursement or application of security deposit for any violation for which notice was not given.

C. Nothing in this section shall be construed to relieve landlord of landlord's responsibility to return the tenant's security deposit or balance as soon as reasonably possible.

§ 193-6. **Wrongful retention of security deposit.**

Absent good cause shown by the landlord, should the landlord fail to return the security deposit or provide the aforesaid written statement within the twenty-one (21) day period established in § 193-5, above, the landlord shall be liable to the tenant for an additional 25% of the entire security deposit in landlord's possession. Furthermore, in the event that the landlord willfully and without good cause fails to return all or a portion of the security deposit, a court may award to the tenant up to triple the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorney's fees and court costs. In determining whether to award such treble damages and/or attorney's fees, the court may consider the past practices of the landlord regarding return of other security deposits. Treble damages and/or attorney's fees shall not be awarded pursuant to this section where a landlord has made a good-faith estimate or has properly documented (e.g. with receipts, invoices) the amounts which properly should be withheld from the security deposit and has returned to the tenant the balance of the security deposit in a timely manner. Should the landlord, within the aforesaid twenty-one-day period, fail to return the entire security deposit or fail to provide the aforesaid written statement specifying the reasons for the retention of all or a portion of the security deposit, accompanied by full payment of the difference between the security deposit and the amount retained, it shall be presumed that the landlord is willfully and without good cause retaining the security deposit.

§ 193-7. **Burden of proof.**

In any court action brought by a tenant for the return of the security deposit, the landlord shall bear the burden of proving that the withholding of the security deposit or any portion of it was justified.

§ 193-8. **Waiver of provisions void.**

Any attempted waiver of the terms of this article by a landlord or tenant, by contract or otherwise, shall be deemed to be against public policy and shall be considered void and unenforceable.

**Section 2. SEVERABILITY**

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court or competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other person or circumstances and the

Town Board hereby declares that it would not have enacted this local law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

**Section 3. EFFECTIVE DATE**

This local law shall take effect immediately upon filing with the Secretary of State.