

**LOCAL LAW NO. \_\_ OF 2024, AMENDING  
ARTICLE XI OF CHAPTER 43 (ZONING) OF THE  
CODE OF THE TOWN OF ORANGETOWN SO AS  
TO AMEND THE DEFINITION OF FAMILY**

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ORANGETOWN AS FOLLOWS:

As amended, additions are underlined, ~~deletions are stricken.~~]

**Section 1 - Recitals and Legislative Intent.**

It is hereby found that, in accordance with the objectives as set forth in the Town of Orangetown’s (“Town”) 2023 Comprehensive Plan, changes to the existing Town Code are necessary in order to provide a clear guideline to achieve such objectives. Among such objectives is to preserve the character of residential neighborhoods by providing for a more detailed definition of a “family” that is consistent with preserving the character of residential neighborhoods in a manner that is consistent with long established precedent in the State of New York, and the practice of the Town of Orangetown.

**Section 2 - The definition of the word “family,” set forth in § 11.2 (Definitions) of Article XI (Definitions and Word Usage), of Chapter 43 (Zoning), of the Code of the Town of Orangetown, is amended to read as follows:**

**FAMILY**

- (a) One person or a group of persons occupying a dwelling unit and living together in, and operating as a single nonprofit housekeeping unit ~~and operating as the functional equivalent of a “family”~~;
- (b) It shall be presumptive evidence that three or more persons living in a single dwelling unit, who are not related by blood, marriage or legal adoption, do not constitute a single housekeeping unit.
- (c) In determining whether persons are living together as a single housekeeping unit, the following criteria must be met :
  - (1) The group of persons is one which, by its size, appearance, structure and function, resemble a “family” unit as customarily defined outside of this code.
  - (2) The group of persons must share the entire dwelling unit, and live and cook together as a single nonprofit housekeeping unit. A dwelling unit, in which the various occupants act as separate roomers, shall not be deemed to be occupied as a single housekeeping unit.
  - (3) The group of persons share expenses for food, rent or ownership costs, utilities, and other household expenses.
  - (4) The group of persons is non-transient and stable. Evidence of being non-transient and stable includes, but is not necessarily limited to:

- (i). The presence of minor dependent children regularly residing in the household and who are enrolled in local schools.
  - (ii). Members of the group have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes.
  - (iii). Members of the group are employed in the area.
  - (iv). The members of the group have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or other dwelling units.
  - (v). There is common ownership, among the members of the group, of furniture and appliances.
  - (vi). The group of persons is not transient or temporary in nature.
- (5) Any other factor reasonably related to whether the group of persons is occupying the dwelling as a single housekeeping unit.

**Section 3 - Item numbered 2, under Column 5 (General Accessory Uses), of 43 Attachment 1 entitled "Table of General Use Regulations (§ 3.11) R-80 District (Part 1)," of Chapter 43 (Zoning), of the Code of the of the Code of the Town of Orangetown, is amended to read as follows:**

Keeping not more than ~~2~~ 1 non-transient boarder or roomer.

**Section 4 - Adoption of a new Article XIX, of Chapter 43 (Zoning), of the Code of the Town of Orangetown, to be entitled "Illegal Occupancies."**

A new Article XIX, of Chapter 43 (Zoning), of the Code of the Town of Orangetown ("Orangetown Code"), to be entitled "Illegal Occupancies," is hereby inserted into the Orangetown Code to read as follows:

**Article XIX. Illegal Occupancies**

**§ 19-1. Legislative Intent; purpose.**

The Town of Orangetown ("Town") hereby finds that there exists serious conditions in the Town arising from the rental of dwelling units that are substandard, inadequate in size, overcrowded and/or dangerous and/or in violation of Local, County and/or State laws and codes, and that the rental of such dwelling units poses a significant threat to life, health and property of Town residents, and their guests and invitees, and others, and tends to promote, and encourage, deterioration of housing within the Town, contributes to excessive motor vehicle traffic and parking problems, and overburdens, and has a detrimental effect upon, municipal services. The Town Board finds that the current Orangetown Code provisions are inadequate to adequately deter, and/or eliminate, the existence of such dwelling units, and that adequate local legislation regulating these occupancies is required to promote and preserve the public health, safety and welfare, and the good order and governance of the Town. The enactment of the regulations set

forth in this Article, which regulations are remedial in nature and effect, shall result in enhancing the public health, safety and welfare, and the good order and governance of the Town.

**§ 19-2. Scope.**

This Article shall apply to all real property located within the Town, whether or not the use and occupancy thereof shall be permitted under the applicable use regulations for the Zoning District in which such real property is located.

**§ 19-3. Applicability.**

The provisions of the Article shall be deemed to supplement applicable Local, County and State laws, ordinances, codes and regulations. Nothing in this Article shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, the County or the State, or existing requirements of any other provision of Local Law or Ordinance of the Town, or of the County or the State; in situations where there is a conflict between any provisions of this Article and any applicable State, County or Local Law, ordinance, code or regulation, the more restrictive provision or requirement shall prevail.

**§ 19-4. Illegal occupancy.**

It shall be unlawful to occupy, or to allow, consent or cause to be occupied, or to assist or abet in the occupancy of, a dwelling unit in the Town under circumstances where the number of occupants exceeds the permitted number of occupants.

A. Presumptions of illegal occupancies in single (or one) family dwellings.

(1) In all civil and criminal prosecutions brought for the enforcement of code provisions with respect to illegal occupancies, there shall be a rebuttable presumption that a single (or one) family dwelling unit is occupied by more than one family if any two or more of the following features are found to exist on the premises by the Town’s Office of Building, Planning and Zoning Administration and Enforcement (“OBZPAE”), which shall include the Building Inspectors, Fire Inspectors and/or Code Enforcement Officers (a/k/a Code Enforcement Officials or Code Enforcers), authorized to enforce, or investigate, violations of the Orangetown Code, or any laws, codes, rules and regulations of the State of New York (hereinafter such Inspectors, Officers and Officials may be referred to as “Code Enforcers”):

- (a) More than one mailbox, mail slot, or post office address, or any combination thereof.
- (b) The number of exterior doorways exceeds the number permitted by the most recently approved site development plan(s), and/or architectural drawing(s),

or any subsequent variances that may have been granted by the Town's Zoning Board of Appeals.

- (c) More than one natural gas meter.
  - (d) More than one electric meter.
  - (e) More than one water meter.
  - (f) More than one connecting line for cable television/internet service, or a "split" cable television/internet line not authorized by the cable company to be split.
  - (g) More than one satellite antenna, satellite dish, or similar satellite receiving equipment.
  - (h) More than one exterior telephone line.
  - (i) Separate entrances for segregated parts of the dwelling unit, including, but not limited to, bedrooms.
  - (j) Partitions, or internal doors, with "key locks" that can serve to bar access between segregated portions of the dwelling unit, including, but not limited to, bedrooms.
  - (k) Separate written, or oral, leases or rental agreements or arrangements, including, but not limited to, separate payments, or agreements or arrangements, to pay for occupancy of portions of the dwelling unit, between the owner(s) of the real property and its occupants.
  - (l) The inability of any occupant to have lawful access to all parts of the dwelling unit.
  - (m) Two or more kitchens, unless approved by OBZPAE with a Certificate of Occupancy granted.
  - (n) Any entrance which has not been set forth on any architectural or engineering plans or drawings approved by, and on file with, OBZPAE.
  - (o) Two or more motor vehicles parked on the dwelling lot registered to persons with two or more different surnames.
- (2) In addition to the foregoing, it shall also be a rebuttable presumption of an illegal occupancy if a portion of a single (or one) family dwelling has been advertised, or listed or published with any newspaper, magazine, local advertising publication, or real estate broker or agent, whether physically published or printed, or posted online on the internet, as being available for sale or rent or lease, or has been orally advertised as being available for rent or lease.

**B. Presumptions of illegal occupancies in multiple-family dwellings.**

- (1) In all civil and criminal prosecutions brought for the enforcement of code provisions with respect to illegal occupancies, there shall also be a rebuttable presumption that a multiple-family dwelling unit is occupied by more than the permitted number of families if any two or more of the following circumstances are found to exist at the premises by a Code Enforcer:
  - (a) The number of mailboxes, mail slots or post office addresses exceeds the number of permitted families.

- (b) The number of doorbells, or exterior entrance doorways, exceeds the number of permitted families.
  - (c) The number of natural gas meters exceeds the number of permitted families.
  - (d) The number of electric meters exceeds the number of permitted families.
  - (e) The number of water meters exceeds the number of permitted families.
  - (e) The number of connecting lines for cable television/internet service exceeds the number of permitted families.
  - (f) The number of satellite antennas, satellite dishes, or similar satellite receiving equipment, exceeds the number of permitted families.
  - (g) The number of exterior telephone lines exceed the number of permitted families.
  - (h) The number of kitchens, each containing one, or more, of the following: a refrigerator, sink and/or range/cooktop, oven, hotplate, microwave, or other similar devices customarily used for cooking or the preparation of food, exceeds the number of permitted families.
  - (i) The number of motor vehicles parked on the dwelling lot, registered to persons with different surnames, exceeds the number of permitted families.
  - (j) The number of entrances for segregated parts of the dwelling unit(s), including, but not limited to, bedrooms, exceeds the number of permitted families.
  - (k) Partitions, or internal doors, with "key locks" that can serve to bar access between segregated portions of the dwelling unit(s), including, but not limited to, bedrooms.
  - (l) Separate written, or oral, leases or rental agreements or arrangements, including, but not limited to, separate payments, or agreements or arrangements, to pay for occupancy of portions of the dwelling unit, between the owner(s) of the real property and its occupants.
  - (m) The inability of any occupant to have lawful access to all parts of the dwelling unit(s).
  - (n) Any entrance which has not been set forth on any architectural or engineering plans or drawings approved by, and on file with, OBZPAE.
- (2) In addition to the foregoing, it shall also be a rebuttable presumption of an illegal occupancy if a portion of a multiple-family dwelling has been advertised, or listed or published with any newspaper, magazine, local advertising publication, or real estate broker or agent, whether physically published or printed, or posted online on the internet, as being available for sale or rent or lease, or has been orally advertised as being available for rent or lease, for a number of families in excess of the permitted number of families.

C. Verified statement. If any two or more of the elements set forth in the above subsections A(1) or B(1) are found to exist on the premises by a Code Enforcer, the Code Enforcer may request that the owner of the building, or dwelling, provide a verified statement that the building, or dwelling unit(s), is/are in compliance with all of the provisions of the Orangetown Code, the New York State Uniform Fire Prevention and Building Code (Title 19 of the New York Codes, Rules and Regulations), and the

sanitary and housing regulations of the County of Rockland. If the owner fails to submit such verified statement, in writing, to the Code Enforcer within 10 days of such request, such shall be deemed a violation of this Article.

- D. Owner's right to inspection and report upon demand. A person charged with a violation of this Article may demand an inspection by OBZPAE of the subject premises to rebut any of the presumptions hereunder. Such demand shall be in writing, and addressed to a Code Enforcer. The Code Enforcer shall prepare a report of the findings of the inspection, together with photographs, if appropriate.
- E. Presumptive evidence that dwelling unit is rented or leased. The presence, or existence, of any of the following shall create a presumption that a dwelling unit is rented or leased:
- (1) The dwelling unit is occupied by someone other than the owner, and the owner of the dwelling unit represents, in writing or otherwise, to any person, establishment, business, institution or government agency, that he resides at an address other than the dwelling unit in question.
  - (2) Persons residing in the dwelling unit represent that they pay rent to the owner, or an agent or manager of the owner, of the dwelling unit.
  - (3) Utilities, cable, telephone, or other services, are in place, or are requested to be installed, or used at the dwelling unit, in the name of someone other than the owner.
  - (4) Testimony by a witness that it is common knowledge in the community that a person other than the owner resides in the dwelling unit.
- F. Presumptions rebuttable by conclusive evidence. Any and all of the presumptions of non-compliance, or violations, raised by proof of the existence of any such conditions or circumstances, as set forth in this Article, may be rebutted, but only by conclusive evidence that such conditions or circumstances do not, in fact, exist, or that such conditions or circumstances, or the dwelling unit or the occupancy thereof, in fact, comply with the codes.

#### **§ 19-5. Penalties for offenses.**

Any natural person, business entity, company, association or organization who shall violate any of the provisions of this Article shall be punishable by a penalty as set forth in Chapter 41A of the Orangetown Code.

#### **§ 19-6. Nonpayment of penalties.**

Should the aforesaid penalties not be paid within 30 days of being sentenced by a Town Justice, and after notice of said failure to pay is sent to the violator by U.S. Postal Service First Class

Mail, then the real property that is the subject of such judicial sentence shall be assessed against the record owner of the property; and the penalties so assessed shall constitute a lien and charge on such real property on which it is levied until paid, or otherwise satisfied or discharged, and shall be collected in the same manner, and at the same time, as Town property taxes and charges.

**§ 19-7. Enforcement.**

- A. The Director of OBZPAE, and/or any Code Enforcer, and/or any of their deputies and/or assistants, shall be responsible for investigating, and documenting, violations of any case of illegal occupancy within the Town.
- B. Prosecutions for violations of this Article may be instituted in the Town Justice Court, or any other court of competent jurisdiction.
- C. The Orangetown Town Attorney may institute an action in the Supreme Court of the State of New York, County of Rockland, for appropriate injunctive relief pursuant to New York State Town Law.

**Section 5 - Severability.**

If any part or provision of this Local Law, or the application thereof to any person or circumstance, is adjudged invalid or unconstitutional by a court of 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 persons or circumstances. The Town Board of the Town of Orangetown hereby declares that it would have enacted the remainder of this Local Law even without any such invalid or unconstitutional part, provision or application.

**Section 6 - Effective Date.**

This Local Law shall take effect immediately upon the filing of a copy with the NYS Secretary of State in the manner prescribed by NYS Municipal Home Rule Law §27.