

**INTRODUCTORY LOCAL LAW No. 8 OF 2016  
VILLAGE OF WALDEN**

**A LOCAL LAW CREATING A NEW CHAPTER 215 ENTITLED “ILLEGAL DRUG USE AT RENTAL PROPERTIES”, OF THE CODE OF THE VILLAGE OF WALDEN TO PROVIDE FOR THE ABILITY OF THE VILLAGE OF WALDEN TO FORCE THE EVICTION OF TENANTS FROM RENTAL PROPERTIES WHERE IT HAS BEEN DETERMINED THAT SUCH RENTAL PROPERTIES ARE BEING USED FOR THE PURPOSE OF ILLEGAL DRUG USE, POSSESSION OR SALE**

BE IT ENACTED by the Village Board of the Village of Walden, Orange County, New York as follows:

**SECTION 1. PURPOSE AND INTENT.**

The Board of Trustees of the Village of Walden is concerned about the use of rental properties located within the Village for the purposes of illegal drug use, possession and sale. These illegal acts have a deleterious effect upon the neighborhoods in which the properties are located. The remedies provided in § 715 of the New York State Real Property Actions and Proceedings Law do not adequately address the problems resulting from the aforementioned illegal acts; and the District Attorney of Orange County is willing to proceed with evictions pursuant to its Narcotics Eviction Program.

**SECTION 2. CHAPTER 215 (“ILLEGAL DRUG USE AT RENTAL PROPERTIES”).**

A new Chapter 215 of the Code of the Village of Walden, entitled “Rental Properties” is hereby established as follows:

**§ 215-1. Eviction.**

A special summary proceeding to evict a tenant from leased premises may be maintained upon the ground that the premises, or any part thereof, have been used or occupied for the purpose of using or possessing drugs deemed by New York State Penal Law to be illegal by their nature, quantity, possession, or use (hereinafter “Illegal Drugs”). For the purposes of this Chapter, the term “tenant”, in addition to its ordinary meaning, shall include an occupant of one or more rooms in a rooming house or a resident, not including a transient occupant, of one or more rooms in a hotel who has been in possession for 30 consecutive days or longer.

**§ 215-2. Procedures.**

The procedures applicable to summary proceedings to recover possession of real property under New York State law shall be applicable to any proceeding brought under this Chapter.

**§ 215-3. Service of notice; commencement of eviction proceedings.**

- A. The following persons, corporations or agencies may serve personally upon the owner or landlord, or upon his agent, of demised real property used or occupied in whole or in part for the use or possession of Illegal Drugs, a written notice requiring the owner or landlord to make an application for the removal of the person(s) so using or occupying the premises:
  - a. Any domestic corporation organized for the suppression of vice, subject to or which submits to visitation by the State Department of Social Services and possesses a certificate of such fact of conformity with the regulations of the State Department of Social Services.
  - b. Any duly authorized enforcement agency or person of the State or of a subdivision thereof, under a duty to enforce the provisions of the Penal Law or of any State or local law, ordinance, code, rule or regulation relating to buildings.
- B. If the owner or landlord or his agent does not make such application for removal within 15 days after the date of the mailing of the notice; or having made it, does not in good faith diligently prosecute it, the person, corporation or enforcement agency giving the notice may bring a proceeding under this Chapter for such removal as though the petitioner were the owner or landlord of the premises, and shall have precedence over any similar proceeding thereafter brought by such owner or landlord or to one theretofore brought by him and not prosecuted diligently and in good faith.
- C. Proof of the existence, use or sale of Illegal Drugs on the premises shall constitute presumptive evidence of the unlawful use of the demised premises required to be stated in the petition for removal. Both the person(s) in possession of the property and the owner or landlord shall be made respondents in the proceedings.

**§ 215-4. Multiple convictions to constitute presumptive evidence.**

Two or more convictions of any person or persons, within a period of one year, for any of the offenses defined in Articles 220 and 221 of the Penal Law arising out of conduct engaged in at the same real property consisting of a dwelling as that term is defined in § 4(4) of the Multiple Dwellings Law shall be presumptive evidence of conduct constituting use and occupancy of the premises for the purpose of using and possessing Illegal Drugs, and of the tenant's knowledge thereof.

**§ 215-5. Civil penalties.**

A court granting a petition pursuant to this Chapter may, in addition to any other order provided by law, make an order imposing and requiring the payment by the respondent of a civil penalty not exceeding \$5,000 to the municipality in which the subject premises is located and the payment of reasonable attorneys' fees and the costs of the proceeding to the petitioner. In any such case,

multiple respondents shall be jointly and severally liable for any payment so ordered, and the amounts of such payments shall constitute a lien upon the subject realty.

### SECTION 3: SUPERSEDING PROVISION.

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, including, but not limited to § 715 of the New York State Real Property Actions and Proceedings Law, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

### SECTION 4: SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

### SECTION 5: EFFECTIVE DATE.

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.