

VILLAGE OF NEW PALTZ

LOCAL LAW NO. __ OF 2017

A LOCAL LAW AMENDING CHAPTER 129 OF THE VILLAGE OF NEW PALTZ
CODE ENTITLED "HOUSING STANDARDS"

Be it enacted by the Village Board of the Village of New Paltz, County of Ulster, State of New York, as follows:

Section 1. Purpose.

The Village of New Paltz has a significant tenant population and equitable landlord-tenant relations are a matter of public welfare. Prompt, reasonable return of security deposits is an important factor in tenants being able to obtain subsequent housing. The issue and return of security deposits is a source of potential conflict between landlords and tenants which may result in a burdensome effect on our court system.

Commented [T1]: suggested by KT 9/13; text from Ithaca's law

This Local Law is enacted for the purpose of amending regulations in the Village Code to set forth in detail the process by which landlords renting properties within the Village of New Paltz are required to return the security deposits of their tenants, to ensure that landlords are not improperly withholding said deposits, and to provide a mechanism for the tenant's recovery of same.

Section 2. Amendment.

Village of New Paltz Village Code Chapter 129. Housing Standards, Article II. Rental Property Registration and Inspection Section 129-12 entitled Compliance shall be and hereby is amended by this Local Law as follows:

In section §129-12 after subsection "H.", add the following:

Responsibilities of Landlords With Respect to the Return of Tenant Security Deposits:

A. Upon the termination of a tenancy and provided that the Tenant is not in any default of any obligations under a written lease or month to month tenancy agreement, the Landlord shall, in compliance with the New York State General Obligations Law and Real Property Law, return to the Tenant all monies deposited with the Landlord as a security deposit, if any, minus the following:

- 1. Those funds necessary to reimburse the Landlord for repairs to the property for damages beyond normal wear and tear caused by the Tenant or his or her invitees during the tenancy;**

Commented [T2]: suggested by TR 9/13

- 2. Unpaid rent**

3. Unpaid utilities if said utilities were a Tenant obligation;
4. Expenses associated with a lawful eviction process.

The Landlord shall provide the tenant(s) with an itemized statement detailing the application of all or a portion of the security deposit for any of the items set forth in this subsection

B. Absent any conditions specified Subsection A, said reimbursement, or itemized statement detailing reasons for all or a portion of the security deposit being withheld, shall be postmarked, personally delivered or transmitted via electronic means no later than fourteen (14) calendar days following the date that Tenant surrenders possession of the leased space.

C. For each day after the expiration of the initial **fourteen (14) day** period following ~~surrender of the leased space and/OR at the end of the lease?~~ that Landlord wrongfully fails to return the security deposit or deliver an itemized statement detailing the reasons for withholding all or a portion of the security deposit, in addition to the return of the security deposit, the Landlord shall be liable for payment to the tenant as follows:

- ~~Within Third Calendar Week: 25100% of original security Deposit~~
- ~~Within Fourth Calendar Week: 150% of original security Deposit~~
- ~~Within Fifth Calendar Week: 100% of original security Deposit~~
- ~~Within Sixth Calendar Week: 150% of original security Deposit~~

In shared home situations with multiple leases, it is the responsibility of the landlord to inspect the shared spaces for damages at such time the leased space is surrendered. Tenants cannot be held accountable for damages to shared spaces if they are not recorded at the time of surrender, so long as the Tenant has given the landlord a minimum of 3 days notice of intent to surrender. Said notice must include the specific date and time that the Tenant will surrender the leased space. If a time is not included in said notice, the landlord is obligated to request a specific time from the Tenant or risks forfeiting the right to retain any portion of a deposit for damages to shared space.

~~D. In the event that the Landlord fails to comply with this section and the Tenant is compelled to seek a court order to obtain a refund of all or a portion of the security deposit, the Tenant shall be entitled to reimbursement of reasonable costs and attorney's fees upon a finding by the court in his or her favor. The Tenant shall be responsible for the Landlord's reasonable costs and attorney's fees in the event that the court finds that all or a portion of the security deposit was lawfully retained.~~

Commented [T3]: suggested by KT 9/13; need clarity here

Commented [T4]: According to the village attorney, "This needs to be at surrender of the space because the tenant may have failed to vacate upon the expiration of the lease."

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Commented [T5]: suggested by KT 9/13

Commented [T6]: KT comments 10/2/17 Section C automatically fines fees upon lateness, Section D provides discretion to the judges. We can do either or both.

Commented [T7]: Question from the village attorney, "Is the intent here an additional 100% of the deposit or 100% of the amount wrongfully withheld?"

Commented [T8]: Comment from the village attorney, "I believe that this is somewhat excessive but that is merely an opinion."

Commented [T9]: suggested by DY 9/27/17

D. 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 effort to estimate 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 14-day period, fail to return the entire security deposit if any such refund is appropriate 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.

Commented [T10]: From the village attorney, "I am still of the opinion that if a tenant sues and it is determined that the deposit was properly withheld due to damages caused by the tenant, the tenant should be assessed the landlord's costs and fees in the court's discretion. Not every landlord is disproportionately wealthy. Some people rent out a room in their house to a student or someone else and can suffer damages at the hands of certain tenants."

E. 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.

Commented [T11]: suggested insertion from the village attorney, "if any such refund is appropriate"

F. Nothing in this section shall be construed to imply other than it is the landlord's responsibility to return the tenant's security deposit or balance as soon as reasonably possible.

Commented [T12]: from the village attorney, "We also need to make sure that enforcement of this law does not go beyond the monetary jurisdiction of the Town Court (\$3,000) because this is a separate action from eviction proceedings."

Commented [T13]: suggested by KT 9/13; text from Ithaca's law

Section 3. 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 of competent jurisdiction, such judgment shall be confined in its operation to the part or 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, and the Village Board of the Village of New Paltz hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 4. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 5. Authority

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Village Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

Section 6. Effective Date

This law shall become effective upon filing with the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.