



# BOARD OF SUPERVISORS

04/16/2024

## RESOLUTION 118 - 2024

**Introduced by Law and Finance: Supervisors M. Veitch, Edwards, Grasso, Lant, Ostrander, Tollisen, and K. Veitch**

### **INTRODUCING A LOCAL LAW AUTHORIZING PROPERTY OWNERS TO REQUEST THE REMOVAL OF UNLAWFUL OCCUPANTS FROM DWELLINGS, AND SETTING A PUBLIC HEARING**

**WHEREAS, the** Board finds and determines that the right to exclude unauthorized persons from the occupancy of Residential Real Property is a substantive and critical component of the right of quiet enjoyment inherent in the ownership of such property, and

**WHEREAS, the** Board further finds that the government, protection, order, conduct, safety, health and well-being of persons and property therein requires that adequate and efficient remedies are available to the owners of such real property within the County to ensure the enforcement of such property rights, and

**WHEREAS, the** Board therefore wishes to enact a law that protects owners of dwellings in Saratoga County from unlawful occupants commonly referred to as “squatters” and protect lawful occupants of dwellings from unlawful evictions; now, therefore, be it

**RESOLVED, that** a proposed Local Law, identified as Introductory No. \_ of 2024, Print No. \_ of 2024, entitled “A LOCAL LAW AUTHORIZING PROPERTY OWNERS TO REQUEST THE REMOVAL OF UNLAWFUL OCCUPANTS FROM DWELLINGS”, is hereby introduced before the Saratoga County Board of Supervisors, and the Board of Supervisors shall hold a Public Hearing on Tuesday May 14, 2024 at 4:30 P.M. in the Meeting Room of the Saratoga County Board of Supervisors at 40 McMaster Street, Ballston Spa, New York 12020, on the matter of the adoption of such proposed Local Law, and the Clerk of this Board of Supervisors be and she hereby is directed to give notice of such Public Hearing in the manner prescribed by law; and it is

**RESOLVED, that** this Resolution shall take effect immediately.

**BUDGET IMPACT STATEMENT:** No Budget Impact.

April 16, 2024 Regular Meeting

Motion to Adopt: Supervisor Grasso

Second: Supervisor K. Veitch

AYES (225668): Eric Connolly (11831), Joseph Grasso (4328), Philip C. Barrett (19014.5), Angela Thompson (19014.5), C. Eric Butler (6500), Jean Raymond (1333), James D. Arnold

(3525), Kevin Veitch (8004), Arthur M. Wright (1976), Kevin Tollisen (25662), Cynthia Young (17130), Thomas Richardson (5163), Scott Ostrander (18800), Jesse Fish (16202), Willard H. Peck (5242), Sandra Winney (2075), Ian Murray (5808), Michele Madigan (14245.5), Matthew E. Veitch (14245.5), David Ball (8208), John Lant (17361)

NOES (0):

ABSENT (9841): Diana Edwards (819), Edward D. Kinowski (9022)

**INTRODUCTORY NO. 1**

**PRINT NO. 1**

**INTRODUCED BY: Supervisors M. Veitch, Edwards, Grasso, Lant, Ostrander, Tollisen,  
and K. Veitch**

**COUNTY OF SARATOGA**

**LOCAL LAW - 2024**

**A LOCAL LAW AUTHORIZING PROPERTY OWNERS TO REQUEST THE  
REMOVAL OF UNLAWFUL OCCUPANTS FROM DWELLINGS**

**BE IT ENACTED by the Saratoga County Board of Supervisors as follows:**

**SECTION 1. PURPOSE:** The purpose of this law is to protect owners of dwellings in Saratoga County from unlawful occupants commonly referred to as “squatters” and to protect lawful occupants of dwellings from unlawful evictions.

**SECTION 2. DEFINITIONS:** As used in this local law:

- (a) **“DWELLING”** means any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.
- (b) **“UNLAWFUL OCCUPANT”**: means a person who knowingly enters or remains unlawfully in a dwelling having entered the dwelling without permission of a party entitled to possession. It does not mean a person who entered the dwelling upon consent of a party entitled to possession even if the consent is later revoked including: (i) tenants whose oral or written lease has expired; (ii) family members who have been in the dwelling unit for at least 30 days; (iii) roommates or other licensees of tenants and occupants who have been in the dwelling unit for at least 30 days or (iv) workers who have been provided housing as part of their job.
- (c) **“ENTERS OR REMAINS UNLAWFULLY”**: means entering or remaining in a dwelling without any current or prior agreement or consent of the owner or an authorized agent of the owner, whether written or oral concerning the use of the dwelling.
- (d) **“OWNER”**: a person or persons who holds legal title to the property upon which a dwelling sits as evidenced by the most recent deed to the property filed in the Saratoga County Clerk’s Office and the property tax records maintained by the Saratoga County Treasurer’s Office.
- (e) **“AUTHORIZED AGENT”**: a person authorized to act on behalf of the owner of the dwelling by a power of attorney on file with the Saratoga County Clerk and/or a deceased owner’s duly appointed Executor or Administrator as evidenced by either Letters of Testamentary or Administration.
- (f) **“ROOMMATE”**: any person occupying the dwelling with the consent of another lawful occupant even if that other lawful occupant has since vacated the dwelling.

- (g) “**LAW ENFORCEMENT**”: any local law enforcement agency or department located in Saratoga County.

**SECTION 3. CONDITIONS FOR REMOVAL OF UNLAWFUL OCCUPANT:** A property owner or their authorized agent may request from law enforcement the immediate removal of a person or persons unlawfully occupying a dwelling in Saratoga County pursuant to this local law if all the following conditions are met:

- (a) The person requesting the removal is the property owner or authorized agent of the property owner.
- (b) The property that is being occupied is a dwelling.
- (c) An unauthorized person or person has unlawfully entered and remains in the owner’s dwelling.
- (d) The owner of the dwelling or their authorized agent has directed the unlawful occupant to leave the property.
- (e) The person to be removed is not a current or former tenant pursuant to a written or oral rental agreement authorized by the property owner.
- (f) The person to be removed is not a family member of the owner who has been in the dwelling unit for at least 30 days.
- (g) The person to be removed is not a roommate or other licensee of a tenant or any other occupant who has been in the dwelling unit for at least 30 days.
- (h) The person to be removed is not a worker or a member of the worker’s family who has been provided housing as part of their job.
- (i) There is no pending litigation related to the dwelling between the property owner and any known unauthorized person.

**SECTION 4. REQUEST FOR REMOVAL:** to request the immediate removal of an unlawful occupant of a dwelling, the property owner or their authorized agent must submit an affidavit to law enforcement and sign any other forms required by law enforcement. The affidavit submitted must be in substantially the following form:

“I, (insert name) am the owner or authorized agent of the owner of the real property located at (insert address of the dwelling), state under the penalty of perjury that:

- 1. I am the current owner of the dwelling or the authorized agent of the current owner of the dwelling located at (insert the complete legal address of the dwelling).
- 2. I purchased the above referenced dwelling on [insert the date of purchase].
- 3. I have given no individual(s) my consent, permission, or authority to use, possess or exercise dominion and/or control over the dwelling described herein, or take or remove any property from the dwelling.
- 4. I have given no individual(s) my consent, permission or authority to damage or otherwise tamper with the above referenced dwelling.
- 5. The person or persons sought to be removed has or have unlawfully entered and remained in the above referenced dwelling.
- 6. I have directed the unauthorized person or persons to leave the above referenced dwelling, but they have not done so.
- 7. Anyone found currently occupying the dwelling is trespassing in violation of Penal law 145.15.
- 8. The person or persons currently occupying the dwelling are not current or former tenants pursuant to any valid lease authorized by the owner of the dwelling or any former owner

of the dwelling, and any lease produced by an occupant is fraudulent including any claim of an oral lease.

9. The persons or persons sought to be removed are not an owner or co-owner of the property unless the person or persons have engaged in title fraud.
10. The person sought to be removed is not a current or former tenant pursuant to a written or oral rental agreement authorized by the property owner.
11. The person or persons sought to be removed is not a family member of the owner who has been in the dwelling unit for at least 30 days.
12. The person or persons sought to be removed is not a roommate or other licensee of a tenant or any other occupant who has been in the dwelling unit for at least 30 days.
13. The person or persons sought to be removed is not a worker who has been provided housing as part of their job or a member of such a worker's family.
14. There is no pending litigation related to the dwelling between the property owner and any known unauthorized person.
15. There is no person or persons lawfully currently residing in the dwelling.
16. Law enforcement is authorized to enter the dwelling described herein.
17. I hereby express my wishes to have all current occupants of the dwelling described herein investigated, arrested, and prosecuted for trespassing and any other criminal acts they may have committed involving the dwelling described herein.
18. I am requesting law enforcement to immediately remove the unauthorized person(s) from the dwelling.
19. I am also requesting that a local court issue a stay away order of protection directing the person, or persons removed from the dwelling to stay away from me and the dwelling.
20. I realize that law enforcement will rely upon the representations set forth herein in the investigation, arrest and prosecution of the individual named herein for trespass, other offenses and/or the removal of any individual named herein from the premises/property. I understand that law enforcement will act based upon the representations made herein without prior contact with me. If there are any changes to the status of the dwelling, or amendments or changes to this Affidavit. I agree to notify the appropriate law enforcement agency in writing of these changes or amendments immediately.
21. I have read and understood Real Property Actions and Proceedings law 768 which makes it a crime to unlawfully evict a lawful occupant of a dwelling.
22. I understand that a person or persons removed from the property pursuant to this local law may bring a cause of action against me for any false statements made in this affidavit, or for wrongfully using this local law, and that because of such action I may be held civilly liable for actual damages, penalties, costs, and reasonable attorney fees.
23. If applicable, I have affixed hereto either Letters of Testamentary or Administration.
24. I agree to hold harmless and indemnify law enforcement and/or their agents, servants and employees in the event a claim is made alleging that the individual named herein is investigated, arrested and/or prosecuted due to any misrepresentation in this affidavit and/or my failure to give law enforcement written notice of any changes or amendments to the status of the premises/property or any changes or amendments to the representations made herein. This indemnification includes all loss, damages or claims related to any misrepresentation or failure to give written notice of changes or amendments described herein, including attorney's fees necessary to defend the claim.

25. I waive any and all claims against the law enforcement, their officers, employees and/or agents and assume full responsibility for any physical or financial damage to my property or any physical, mental, emotional, or other personal injury that I may suffer as a result of the enforcement of this Trespass Affidavit regardless of how such loss or injury may arise and regardless of who is at fault, even if the loss or injury is caused by neglect, negligence or other fault of law enforcement and/or their officers, employees or agents.
26. I have had an opportunity to consult with an attorney of my own choosing prior to signing this affidavit.
27. I have read every statement made in this affidavit and each statement is true and correct. I understand that the statements made in this petition are being made under penalty of perjury, pursuant to Penal Law 210.40.”

**SECTION 5. REMOVAL PROCEDURE:** Upon receipt of the affidavit, law enforcement shall verify that the person who submits the affidavit is the record owner of the real property upon which the dwelling sits by having the Saratoga County Attorney’s Office review the records of the Saratoga County Clerk’s Office and the Saratoga County Treasurer’s Office. If verified, law enforcement may take the unlawful occupants into custody and bring them without unreasonable delay before a local court judge on trespassing charges as well as any other applicable charges. At which time, a request for a stay away order of protection directing the unlawful occupants to stay away from the owner and their dwelling shall be requested by law enforcement and entertained by the Court. If there is no local court judge available to hear the matter without unreasonable delay, then law enforcement may issue an appearance ticket for trespass directing the unlawful occupant or occupants to appear in the local court on the next date that the local court is in session. At which time, a request for a stay away order of protection directing the unlawful occupants to stay away from the owner and their dwelling shall be requested by law enforcement and entertained by the Court. Any order of protection issued by the court may be fully enforced by the Sheriff or other law enforcement agency.

**SECTION 6. SCOPE:** This local law does not limit any law enforcement officer’s authority to arrest an unlawful occupant for trespassing, criminal mischief, burglary, or other crimes absent such an affidavit or any dwelling owner from simultaneously pursuing other remedies available to them pursuant to the Real Property Actions and Procedure Law of the State of New York.

**SECTION 7: EFFECTIVE DATE:** This local law shall go into effect 60 days after being adopted and shall remain in effect unless or until preempted by state law or rescinded by action of the Saratoga County Board of Supervisors.