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County City Village x Village

(Select One)

of Island Park

Local Law No. 30 of the year 2017, entitled Public Nuisances

Local Law 30 of 2017. Public Nuisances

Section 1. Legislative intent.

The Village Board of the Village of Island Park has determined that it is an integral and crucial role of the Village's government to work in tandem with the Nassau County police in its efforts to thwart and stymie criminals who single out locations within the Village in which to concentrate the commission of certain particularly nefarious types of criminal conduct. Crack houses, and similar places where drugs are used and sold, or where other socially destructive and repugnant crimes are routinely committed, are extreme blights upon the neighborhoods of the Village. This public nuisance chapter will provide a substantial tool to help the police in its continuing efforts to permanently rid our neighborhoods of these locations and to maintain our prized quality of life.

Section 2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PREDICATE ARREST

An arrest for a violation of a predicate offense.

PREDICATE OFFENSE

A violation of any one of the following: Art. 220 (controlled substance offenses), Art. 221 (offenses involving marijuana), Art. 230 (prostitution offenses) or Art. 263 (sexual performance by a child) of the New York State Penal Law, as amended, or §§ 65, 65-a, 65-b, 82, 123 or 126 of the New York State Alcoholic Beverage Control Law, as amended, or § 260.20 (unlawful dealing with a child) of the New York State Penal Law, as amended.

PUBLIC NUISANCE

Any building or structure in the unincorporated areas of the Village of Island Park wherein at least two predicate offenses have been alleged by the Nassau County police, or by any peace officer acting pursuant to his or her special duties, to have occurred, resulting in at least two predicate arrests for any thereof within any twelve-month period, but not including any case in which each of the predicate offenses has been alleged to have occurred during any single twenty-four-hour period.

Section 3. Prohibition.

It shall be unlawful, and a violation of this chapter, for any person or legal entity to be the owner, lessee or otherwise in control of a building or structure which has become a public nuisance as defined herein.

Section 4. Notice.

Upon the occurrence of any first predicate arrest, it shall be the duty of the Department of Buildings to, within 30 days thereafter, provide a written notice as described hereinafter to the owner, lessee or other person or legal entity in control of the building or structure where the predicate offense leading to such arrest has been alleged to have occurred. This notice shall have affixed to it a copy of this chapter, shall identify the date and underlying charge of the first predicate arrest, as well as the name and, if known, the address of the arrestee, and shall declare that if any second predicate arrest shall occur within 12 months after the first, resulting from a second predicate offense having been alleged by the Nassau County police, or by any peace officer acting pursuant to his or her special duties, to have occurred at the said building or structure, then the Village and/or its various appropriate departments shall be empowered to proceed as provided in Section 5 below. This notice shall be sent by personal delivery, or by certified mail, return receipt requested, to such owner, lessee or other person or legal entity at their last known address. Upon the occurrence of any such second predicate arrest, the Village

shall be authorized to proceed with its enforcement powers provided herein, without need for further notice, except as required in the event that the Village shall take action pursuant to Section 5B below or except as otherwise provided by law.

Section 5. Enforcement.

A. In the event that any building or structure shall be maintained as a public nuisance as defined herein, then, in addition to any district court prosecution available to it, the Village shall hereby be empowered to institute an action in any court of competent jurisdiction to enjoin further occupancy of the building or structure in question, for a period of up to three years from the date of the second predicate arrest, and shall be further empowered to seek a temporary restraining order and/or preliminary injunction to remove such occupancy and secure the premises therefrom at the earliest possible time. The Department of Buildings shall also be empowered to proceed with Nassau County District Court prosecutions.

B. Additionally, upon completion of notice and hearing as provided at Subsection C hereof, the Village Board shall be empowered to declare a public nuisance to be an immediate and substantial threat to the safety and well-being of the inhabitants of the building or structure in question, or of the residents or other occupants of the surrounding vicinity, and to direct that such building or structure be physically boarded up and secured from further occupancy for a period of up to one year from the date of such declaration and to direct that a sign be posted upon all exterior doors of such building or structure, declaring with bold lettering that occupancy thereof is prohibited until further order of the Chief Building Inspector.

C. In the event that the Village Board shall take action pursuant to Subsection B above, then the notice and hearing shall be undertaken pursuant to the following requirements:

(1) The notice shall be in writing and shall be provided not less than 10 days prior to the scheduled conduct of the hearing to the owner, lessee or other person or legal entity in control of the building or structure in question by personal delivery or by certified mail, return receipt requested to, such person(s) or legal entities at their last known address(es) and by physical delivery to the front door of the premises in question.

(2) The notice shall state the prerogatives of the Village Board under Subsection B hereof and shall direct all persons receiving notice to provide good cause why the Village Board should not proceed with the ordering of any action authorized under Subsection B.

(3) In the event that a court of competent jurisdiction or the Village Board authorizes action by Village departments to effectuate its directives pursuant to Subsections A or B above,

respectively, and in the event that such actions by Village departments are undertaken in accordance therewith, then the Village shall be entitled to assess the cost to the Village of the actions and to charge and file a tax lien for that amount against the tax lot(s) upon which said building or structure is situated, for the amount of such cost, to be collected in the same manner as provided for the collection of property taxes in the Village, generally.

Section 6. Penalties.

A. In the event of a prosecution in Nassau County District Court of any owner, lessee or other person in control of a building or structure for the violation of Section 3 of this chapter, the penalty shall be a fine of \$1,000 and/or 15 days' imprisonment, and for the purpose of prosecution, the violation of Section 3 hereof shall be deemed to have been committed at the time of the second predicate arrest.

B. It shall be a misdemeanor, punishable by fine of to \$1,000 and/or imprisonment for not more than six months, for any person to enter upon any building or structure which has been posted and secured pursuant to the provisions of this chapter except upon written permission of the Commissioner of Buildings, and it shall be a violation punishable by a fine of up to \$250 and or imprisonment for 15 days for any person to remove or deface any notice posted pursuant to the provisions of this chapter.

Section 7. Severability.

If any provision of this chapter shall be adjudged invalid or unenforceable by a court of competent jurisdiction, then such judgment shall only affect that provision and shall not affect the validity or enforceability of any other provision of this chapter.

Be it enacted by the BOARD OF TRUSTEES of the
(Name of Legislative Body)

County City Village x Village
(Select One)

of Island Park as follows:

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