

Proposed Local Law Regulating Short Term Rentals in the Town of Shandaken

Section 1 – Purpose and Intent

The Town Board finds that it is in the interest of public health, safety, and welfare to implement regulations, including a registration and license requirements for the use of dwellings or dwelling units as short-term rentals within the Town of Shandaken.

The intent of Shandaken Short Term Rental Law is to allow residents to augment their income without creating mini hotels and motels out of residential housing. The purpose is to protect neighborhood character and quality of life from encroaching commercial or business impacts, including but not limited to noise and traffic, and to encourage traditional long-term housing use. The regulations adopted herein are intended to ensure short-term rentals in the Town are registered and required to meet certain minimum standards, while the Town considers the adoption of zoning amendments and/or other police power enactments that are necessary to ensure that the use of residential structures as short-term rentals accords with the Town’s plan for the future development of the community.

To the extent an ambiguity of meaning arises in the implementation or enforcement of this local law, the purpose and intent described herein shall guide the decision making.

Section 2 – Definitions

Short-Term Rental (STR)– A dwelling or dwelling unit that is offered for rent or is rented, in whole or part, for overnight use and occupancy, for a period of fewer than thirty (30) consecutive nights.

Good Neighbor Flyer – An advisory document prepared by the Town Board for Short Term Rental occupants to facilitate the success of the Short-Term Rental, other land uses, and the guests and neighbor experiences by sharing the general rules of community conduct, private property and neighbor considerations, and the safety of residents and guests.

Owner – Individual(s) who are in possession of and have an ownership interest in the STR property. The term “Owner” shall not include an association, receiver, or a mortgagee or lien holder.

Host – A designated adult over the age of 21 years who can be expected to respond to a complaint within 30 minutes by phone and/or one hour in person and is required to be available and authorized to promptly deal with emergencies and other STR guest issues and compliance with STR operating requirements in the Owner’s absence. Such authorization must be designated on the registration form and on file with the Town Code Enforcement Officer and accessible by the appropriate emergency service providers.

Guest - A renter or other person who occupies a STR on an overnight basis for a period of fewer than thirty (30) days, or a guest of such renter or other person.

Section 3 - SHORT TERM RENTAL REGULATIONS

A. A short-term rental use under this section shall not:

(1) Operate without a license as required by Section 4 – License Requirements. Any short-term rental in existence upon the effective date of this local law must comply fully with the requirements of this local law and must, within 90 days after the effective date of this local law,

obtain a STR license.

(2) Operate without providing notification to renters as required by Section 5 – Notification Requirements.

(3) Operate in a two-family or multifamily dwelling or in multiple dwellings on a single property;

C. The Town Board hereby sets a cap on the number of Short-Term Rental licenses at 300. The Town Board may review this cap and may exercise its discretion to adjust the cap if it is determined that such an adjustment is necessary to protect the public health, safety and welfare and promote the Town’s future goals for the development of the community.

E. The Short-Term Rental shall not rent more than four (4) bedrooms nor have more than eight (8) occupants at a time. A maximum capacity of two guests per bedroom is permitted. Children under the age of 16 years old are not counted as occupants for the purpose of this limitation.

F. Renters must be provided a copy of the Good Neighbor Flyer prepared by the Town Board. The flyer shall be added to the Town of Shandaken website and available for download by the STR owner/host. The owner/host shall provide a printed copy of the flyer to renters.

G. For STR whole home rentals, an emergency contact document bearing the name and contact information of the Host, as well as the 911 address of the STR, shall be posted in a conspicuous location in the STR so as to be readily accessible to any guest and the Code Enforcement Officer. When the Host or Host’s contact information changes, the Owner must within one (1) business day provide written notice to the Code Enforcement Officer and update posted renter notices accordingly. The Code Enforcement Officer will promptly update the owner’s STR Registration Form. Both the property owner and the Host are responsible for responding to complaints from neighboring property owners.

H. Exterior advertising on a dwelling or dwelling unit identifying it as a STR is expressly prohibited.

I. Each Host shall provide to each Guest, or post in a conspicuous and readily accessible location within the STR, a property map that clearly depicts the STR’s property boundaries for purpose of preventing trespass on neighboring properties.

J. Non-permanent Structures, Tents, Trailers, RVs, and other Camping Units defined or regulated under are prohibited for use as short-term rentals.

K. A gathering or party of more than 20 persons is expressly prohibited.

L. Hosts shall provide the ability to make emergency telephone calls.

M. Campfires and fire pits must be kept less than 3 feet high and less than 4 feet wide, burn only local wood, and must be avoided on windy days and nights.

Section 4 - LICENSE REQUIREMENTS

A. To obtain a license, the owner of a short-term rental must submit a registration application on a form provided for that purpose by the Town Code Enforcement Officer. Only one (1) STR license shall be issued per Owner.

The application must include the following:

(1) A one-time application fee and annual license fee, which may be established and amended by separate resolution of the Town Board;

(2) The owner's name, telephone number, mailing address, and email address. If the owner is a corporate entity, the application must include such information for every person that possesses an ownership interest in the corporate entity. The application shall also identify whether such person, or their spouse, member of their household or adult children, possess an ownership interest in a STR or a corporate entity that is issued a STR license. No person or individual may possess an ownership interest in more than one STR or more than one corporate entity that is issued a STR license.

(3) The STR's full address

(4) The host's name, telephone number, local address, and email address;

(5) Proof of property insurance;

(6) A floor plan drawn to scale identifying rooms with dimensions;

(7) Ulster County registration. All STR in the Town of Shandaken must be registered with Ulster County; and

(8) Any other information reasonably requested

B. The Town Clerk shall issue a license under this section if:

(1) The application includes all information required under this section;

(2) The residence has a valid certificate of occupancy or is in compliance with the New York State Uniform Code, which compliance shall be determined by either the Code Enforcement Officer or a Code-certified professional retained by the property owner.

(3) The residence does not pose a hazard to life, health or public safety, based on an annual on-site inspection by the Town Code Enforcement Officer.

C. A license will be issued based upon the following process:

(1) Then applications will be decided on a "first come, first served basis", based on the date of the completed application

D. A license issued under this section:

(1) Is valid for 12 months from issuance of the license.

(2) The fee shall be paid by STR registrant for 12 months of licensing and shall not be pro-rated or refunded for any reason.

(3) May not be transferred or assigned by the Owner listed on the application and shall not be conveyed with a sale or transfer of the property.

E. If an STR licensee seeks to renew the license for a subsequent 12-month period, a renewal application must be submitted at least thirty (30) days prior to the expiration of the existing STR license, which renewal is subject to the following requirements:

(1) The owner pays a renewal license fee;

(2) The owner has rented the property at least once over the previous 12 months;

(3) The owner provides updates of any changes to the information required; and

(4) The Code Enforcement Officer has conducted an on-site inspection to confirm the structure is in compliance with the New York State Uniform Code prior to the initial license issuance and a fire inspection every year thereafter.

Section 5- NOTIFICATION REQUIREMENTS

A. The Town Clerk shall provide a packet of information with each license summarizing the restrictions applicable to the short-term rental use, including, but not necessarily limited to:

(1) The name and contact information of the local responsible contact designated in the application;

- (2) Applicable Occupancy limits;
 - (3) Restrictions on noise applicable under separate ordinance;
 - (4) Parking requirement as per Zoning Code §116-24
 - (5) Garbage Receptacles shall be rodent proof & covered and be removed from curbside pick-up location within 24 hours of pick-up. Dumpsters shall not be visible from the street or neighbors.
 - (6) Information on relevant burn bans;
 - (7) A copy of the Good Neighbor Flyer.
 - (8) Other guidelines and requirements applicable to a short-term rental use.
- B.** The Owner or Host of a short-term rental use must:
- (1) Provide renters a copy of the information packet;
 - (2) Provide renters a copy of the Good Neighbor Flyer (at the Owner's expense)
 - (3) Post the packet conspicuously in the common area of the licensed rental unit.
- C.** The Town Clerk shall mail notice of the contact information for the Host to the owner of all properties within 250 feet of the short-term rental property at the Owner's expense.

Section 6- INSPECTIONS

The Code Enforcement Officer shall make inspections to determine the condition of short-term rentals to ensure compliance with this Chapter and the State Uniform Code. For the purpose of performing inspections, the Code Enforcement Officer or representative may enter, examine and survey, at all times, the entirety of the STR premises on presentation of the proper credentials. The Owner or Host of an establishment, or the person in charge, shall give the CEO free access to the building. The CEO will schedule such inspections in advance, unless in the case of imminent danger, in which case the CEO may request access without an advance appointment. To be in compliance, the following minimum requirements shall be met:

- (1) There shall be one functioning smoke detector in each bedroom and at least one functioning smoke detector in at least one other room, one functioning fire extinguisher in the kitchen and at each primary exit, and at least one carbon monoxide detector.
- (2) Exterior doors shall be operational, and all passageways to exterior doors shall be clear and unobstructed.
- (3) Electrical systems shall be serviceable with no visual defects or unsafe conditions.
- (4) All fireplaces, fireplace inserts or other fuel-burning heaters and furnaces shall be vented and properly installed.
- (5) Each bedroom shall have an exterior exit that opens directly to the outside, or an emergency escape or egress window.

Section 7- LICENSES REQUIRED

Except as provided for in Section 3(B)(1) above, no person may operate a short-term rental unless a license for the operation in the name of the Owner or operator and for the specific dwelling unit, has been issued by the Town Clerk and is currently valid and in good standing.

Section 8- ENFORCEMENT AND PENALTIES FOR VIOLATIONS

A. This Chapter may be enforced by the Building Inspector, Code Enforcement Officer and any other officer, employee or agent appointed by resolution of the Town Board. For purposes of this Chapter, all such persons are considered a “Code Enforcement Officer” or “CEO”. All such enforcement officers are authorized to issue violation notices and appearance tickets.

B. Whenever the Code Enforcement Officer determines that there is a violation of any provision of this Chapter, any rule or regulation adopted pursuant to this Chapter or the State Uniform Code or determines that there has been a failure to comply with any provision, or requirement related to the registration, reporting, collection, segregation(?), accounting, disclosure or payment of County bed taxes, the Code Enforcement Officer shall serve upon the Owner an order, in writing, directing the Owner to remedy and correct the violation within the time specified in the order.

C. If, after the expiration of such period, the violation is not remedied and corrected, the Code Enforcement Officer may serve an appearance ticket upon the Owner requiring the Owner to appear before the Town Justice of the Town of Shandaken at a time to be specified in such notice.

D. Whenever the enforcement officer finds that an emergency condition exists, which condition requires immediate attention in order to protect the health or safety of the public or of any owner or occupant, the enforcement officer may issue an order by service of notice in a manner set forth above and reciting the existence of such emergency condition requiring that remedial action be taken immediately. Any person to whom such an order is directed shall comply therewith immediately.

E. Failure to comply with an order when notice has been provided in accordance with this Chapter shall constitute a separate and distinct violation of this Chapter.

F. Each calendar day a violation occurs or continues shall constitute and be deemed a separate and distinct violation.

G. In addition to and not in lieu of any other remedies, any person who violates any provision of this Chapter, any rule or regulation adopted pursuant to this Chapter or the State Uniform Code or who violates or fails to comply with any lawful order promulgated hereunder shall be guilty of a violation and, for a first conviction thereof, shall be subject to a fine in an amount not less than \$100 nor more than \$150, for conviction of a second violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$250 and not more than \$500; for conviction of a third violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$750 and not more than \$1,250; for conviction of a fourth violation and for each subsequent violation committed within twelve (12) months of any prior violation, such person shall be subject to a fine in an amount not less than \$2,000 and not more than \$3,000 or a maximum of fifteen (15) days imprisonment or both.

H. If a person has gained a profit through the commission of any violation of this Chapter, any rule or regulation adopted pursuant to this Chapter or the State Uniform Code, then the court, in lieu of imposing the penalty authorized for the offense under one of the above subsections, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. The court shall make a finding, after a hearing, as to the amount of the profit gained by the defendant's conduct.

I. Upon a third conviction within a 12-month period, the Owner's license to operate the STR shall be deemed suspended for a period of six (6) months. Upon the suspension of such license, the premises shall cease to be used as a short term rental until such time as the license is reinstated. Use of the premises as a short term rental during the license suspension period shall constitute a violation of this Chapter.

J. A renewal license shall not be issued and no license shall be issued to any other person for the subject premises until all violations for which the Owner has been convicted are remedied and corrected.

K. Civil penalties and injunction. In addition to and not in lieu of any other remedies, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to obtain civil monetary penalties and compel compliance with or to restrain, by injunction, the violation of this chapter or any order promulgated hereunder. The civil monetary penalties shall be in accordance with and not exceed the monetary penalties set forth in subsection G above.

Section 9 – SEVERABILITY

If a court of competent jurisdiction adjudges that any word, section, clause, paragraph, sentence, part or provision of this local law is invalid, such judgment shall not affect the validity of any other part of this law which can be given effect without such invalid part or parts.

Section 10 - EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with the Municipal Home Rule Law of the State of New York.