TOWN OF GARDINER **SHORT TERM RENTALS** **draft 6.4.19**

PURPOSE

The purpose of this local law is to allow permitted residents of the Town of Gardiner to take advantage of the economic benefits of short term rentals (STR) of residential land and housing units while protecting all residents of the Town from harm to the character of neighborhoods and community. Further, this local law seeks to ensure that the value of our housing stock is based on its residential value and not on a return on invest associated with STRs and affordability of housing stock and that the law is consistent with the Town's Comprehensive Plan goals and recommendations including:

> Maintain the rural character – environment, visual, acoustic, privacy and social - of the Town of Gardiner by ensuring Home Occupations on Residential Properties do not diminish the quality of Gardiner's neighborhoods or the housing choices for each level of income in the community.
>
> Encourage revenue producing land uses and provide sufficient incentives for creative development while also supporting tourism as an important part of the local economy and encouraging the growth of Gardiner's local retail-services.
>
> Protect the public health, welfare and safety in concert with the requirements of Emergency Services.

INTENT AND AUTHORITY

This Local Law is intended to apply to all existing and future residential land and housing uses and to multi-family housing units. Further, this Local Law is intended to protect Gardiner's local housing stock by requiring owner occupied short term rentals.

This chapter is not intended to regulate uses such as lodging facilities, bed and breakfast establishments, time-share units, rooming houses, nursing homes, halfway homes, or rehabilitation homes. Residential units rented on a month-to-month basis or annual basis, pursuant to a valid lease agreement are also excluded.

The Town Board authorizes the Code Enforcement Officer to issue permits to property owners to operate short term rental units per the provision of this local law. Applications for a permit to operate a short term rent unit shall be processed under the procedures set forth in this local law.

To the extent an ambiguity of meaning arises in fulfillment of this local law, the Purpose and Intent described shall guide the decision making.

DEFINITIONS

Good Neighbor Brochure – A welcoming document prepared by the Town Board for STR occupants as a means to facilitate the success of the STR and the guest experience by sharing the general rules of community conduct, private property considerations and the safety of residents and guests.

Short-term Rental

A dwelling unit that is rented ~~in whole or part,~~ to any person or entity for a period of less than 30 consecutive nights, and is not regulated by any other section of the Code of the Town of Gardiner. "Rental" means an agreement granting use or possession of a residence, in whole or part, to a person or group in exchange for consideration valued in money, goods, labor, credits, or other valuable consideration.

Owner Occupancy

Owner occupancy means majority (51% or more) of ownership in the property shall be in residence a minimum of 49 weeks per year during short-term rentals.

Owner Occupancy Exceptions

(1) For a maximum of three (3) weeks, seven (7) contiguous day periods, per year an Owner may designate a Host to fulfill the requirements of this local law in her/his absence. Or,

(2) For Short Term Rentals existing at the time of enactment of this local law, a maximum three (3) grandfathering-in of a non-owner occupied STRs that otherwise complies with the conditions of this law.

Host

A designated adult over the age of 21 years who lives within a 10-mile distance from the STR property 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 on file with the Town and with the appropriate Fire/Rescue Service.

SHORT-TERM RENTAL REGULATIONS

A. Permit required. An owner shall obtain a revocable short-term rental permit whenever a dwelling unit is to be used for short-term rental purposes.

(1) A short-term rental permit shall be obtained prior to using the unit as a short-term rental.

(2) A short-term rental permit shall be valid for two calendar years, shall expire on December 31 of the second year it is in effect, and must be renewed upon expiration as long as the unit is used as a short-term rental.

(3) The short-term rental permit is transferable to a new owner, so long as the owner registers with the Town, updates the short-term rental permit application, and agrees in writing to comply with the requirements of the short-term rental permit and these regulations.

(4) Failure to comply with the terms of the short-term rental permit or these regulations may result in the short-term rental permit may be revoked and the owner subject to the penalties of Chapter **1**?, § **????**, of the Code of the Town of Gardiner, and the penalties set forth below.

B. Short-term rentals shall meet the following standards:

(1) The maximum occupancy for each short-term rental unit shall be limited to two (2) guests per bedroom and total maximum house occupancy shall be posted in the STR. Children twelve (12) year old and younger are not counted as guests.

(2) The property must have sufficient off-street parking spaces to accommodate the maximum occupancy. Owners and guests shall park in the off-street parking spaces required and shall not park on any part of the lawn of the property or on the street.

(3) The house number visible from the street or road shall be maintained to ensure Fire/Rescue Services reliable identification of the property. Fire/Rescue "Call Outs" for other than a true emergency shall be reported to the CEO and may result in fines to be paid and/or revocation of the STR permit.

(4) Provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors, and placed where they are not clearly visible from the street or road except around pickup time.

(5) Any STR applicant who has a "shared driveway" must include a signed letter of support for the application by all property owners who share the driveway.

(6) Good Neighbor Brochure shall be posted in common area of the STR and physical copies provided and available to guests.

(7) STR's must register with Ulster County (per Ulster County Local Law #5 of 1991) and a copy of said registration is to accompany STR applications to the Town of Gardiner. Property Owners in Gardiner that are listed on an Ulster County maintained list of homes used for STR's shall receive notification by the Town of Gardiner of the STR Law including that Law's registration and operational requirements.

C. Short-term rental permit application requirements. An application for (or renewal of) a short-term rental permit shall be submitted to the Town Code Enforcement Officer, signed by all persons and entities that have an ownership interest in the subject property and shall be accompanied by payment of the permit fee, and a copy of the current vesting deed showing how title to the subject property is then held.

All STR units must comply with NYS Building Code and NYS Pool Code requirements. STR's must pass a yearly fire/safety inspection and the Report of said inspection is to be attached to STR renewal permit applications.

The permit application shall be completed on the form provided by the Town.

D. Procedure upon filing application.

(1)

Upon the filing with the Town Code Enforcement Officer a complete permit application, permit fee, and all documents and information required by this chapter, the Town Code Enforcement Officer shall have 30 days to review the application and then either issue the permit, with or without conditions, or notify the applicant in writing that the application has been denied, along with the reason or reasons for denial. If a permit is issued, the permit shall bear the signature of the Town Code Enforcement Officer.

(2)

In reviewing the application, if the Town Code Enforcement Officer has probable cause to believe information contained in the application is inaccurate or incomplete, the Town Code Enforcement Officer may request permission from an owner of the short-term rental to come onto the property and to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section. Owners of the short-term rental are under no obligation to grant such access to the property however the Town Code Enforcement Officer retains the discretion to disapprove the application.

In issuing a short-term rental permit, the Town Code Enforcement Officer may impose such reasonable conditions and restrictions as are directly related to and incidental to the use of the property for short-term rentals so long as such conditions and restrictions are consistent with the requirements of the Town Zoning Law of the Town of Gardiner and are imposed for the purpose of minimizing any adverse impact the issuance of the short-term rental permit may have on the neighborhood or community.

(3)

The Town Board shall render decisions on any Non-Owner Occupancy applications. The CEO shall forward to the Town Board with the recommendation to approve – with or without conditions - or to disapprove the application.

(4)

The Town Code Enforcement Officer may decline an application for any of the following reasons:

(a)

If the application is incomplete, the documentation required by this chapter was not included with the application or the full permit fee, in payment form acceptable to the Town Clerk, was not included with the application.

(b)

If the Town of Gardiner had revoked a previously issued a short-term rental permit and the conditions of the revocation have not been met.

(c)

If the affidavit from the owners or, if conducted, an inspection conducted by the Town Code Enforcement Officer as authorized in this section, does not evidence that the subject property is in compliance with this chapter.

(d)

If the site plan required to be submitted with the application does not comport with the requirements of this section.

(5) Short-term rental permits issued pursuant to this section shall state the following:

(a)

The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available during the entire time the short-term rental property is being rented;

(b)

The maximum occupancy and vehicle limits for the short-term rental unit;

(c)

Identification of the number of and location of parking spaces available;

(d)

A statement that guests must comply with the Noise Ordinance of the Town of Gardiner, as set forth in Chapter ??? of the Town Code, which sets strict limits on noise levels between XXXX p.m. and XXXX a.m., which ordinance will be enforced by the Code Enforcement Officer, the Ulster County Sheriff's Office, the New York State Police, or any law enforcement agency properly exercising jurisdiction over the premises or incident;

(e)

A statement that the short-term rental permit may be revoked for violations;

(f)

Any conditions imposed by the Town Code Enforcement Officer; and

(g)

That the permit shall expire on December 31 of the second year for which it is effective.

E. Fees and Reporting

The Town Board of the Town of Gardiner shall annually establish the fee structure for permit applications and any related fees as may be determined by the Town Board to be necessary.

Annually the CEO shall file with the Town Board a report that, at a minimum, identifies the number of permits applied for, granted, or declined. Such report shall indicate the amount of time the CEO office expended on each, or on average, application and any recommendations for fee schedule changes.

F. Conformity and display of permit.

(1)

The issuance of a short-term rental permit is subject to continued compliance with the requirements of these regulations.

(2)

Prior to any tenants coming onto the short-term rental property:

(a) The current short-term rental permit shall be prominently displayed inside and near the front entrance of the short-term rental; and

(b)

A copy of the current short-term rental permit shall be provided to every adjacent property owner and to every property owner within 150 feet of the short-term rental property (whether on the same side of the road, across the street or behind the subject property). A statement of compliance with this provision, stating the owners served, and their addresses, and the method of service (e.g., mail, personal delivery), shall be provided to the Town Code Enforcement Officer.

(3)

The owners must ensure that current and accurate information is provided to the Town Code Enforcement Officer and that they notify the Town Code Enforcement Officer immediately upon any information contained on the permit change. If, based on such changes, the Code Enforcement Officer issues an amended short-term rental permit, the owners must immediately replace the permit displayed inside and near the front entrance of the short-term rental with the amended permit and must immediately provide a copy of the amended permit to every adjacent property owner and to every property owner within 150 feet of the short-term rental property (whether on the same side of the road, across the street or behind the subject property).

G. **Compliance, hearings and penalties**. Owners of short-term rental units shall obey all applicable laws, ordinances and regulations of the Town of Gardiner, Ulster County, New York State and the United States of America, and shall be subject to the enforcement and penalty proceedings contained in this chapter. The following process shall be followed in the event of a complaint alleging a violation of these regulations or a permit issued under these regulations:

(1)

The complaining party shall first attempt to contact the contact person designated on the permit, describe the problem and indicate the desired remedy.

(2)

The contact person shall, within two hours of receiving the complaint, respond to the complaint and remedy as soon as reasonably possible any situation that is out of compliance with these regulations or with the permit for the property.

(3)

If the response is not satisfactory to the complaining party (including the inability to promptly reach the contact person), the complaining party may file a complaint with the Town Code Enforcement Officer by submitting a written complaint including the date, time and nature of the alleged violation as well as a statement that the complainant either unsuccessfully attempted to contact the contact person or did contact the contact person but the complaint was not adequately resolved. A failure to attempt to contact the contact person will not excuse a violation.

(4)

If the Town Code Enforcement Officer finds a violation of the permit or of this section, the Code Enforcement Officer may do any of the following depending on the circumstances:

(a)

Attach reasonable conditions to the existing short-term rental permit;

(b)

Suspend the short-term rental permit; and

(c)

Revoke the short-term rental permit.

(5)

Should a permit be revoked, none of the owners of the short-term rental property may obtain any short-term rental permit sooner than one year after the date of revocation.

(6)

The Town may initiate enforcement proceedings under this chapter at any time following receipt of a complaint.

(7)

Decisions of the Code Enforcement Officer will be provided to the parties and may be appealed, within 30 days of receipt of the decision, by the owner or by the complainant to a tribunal, appointed by the Town Board, consisting of one Town Board member, one Town resident who holds a short-term rental permit, and one Town resident who does not hold a short-term rental permit. The appealing owner or complainant shall make a written request for a hearing to the Town Clerk, and the tribunal shall hear the appeal within 15 days of the request, during which time the decision of the Code Enforcement Officer shall be stayed. At the hearing, the tribunal shall accept evidence offered by the property owner, the complaining party, the Code Enforcement Officer and any other witness with relevant evidence. The tribunal shall make its decision within 10 days of the hearing, and may uphold the Code Enforcement Officer's decision, reject it, or modify it.

(8)

Any property owner found in willful violation of the provisions of this section shall be required to reimburse the Town for its reasonable costs of enforcement, including reimbursement for staff time and reasonable attorney's fees.