

Proposed Short Term Rental Law Town of Gardiner

Section 1 - 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 investment 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.

Section 2 - 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 allowing short term rentals only where the dwelling is a Primary Residence as defined in this local law.

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.

This Local Law is adopted in accordance with Articles 9 and 16 of Town Law of the State of New York which grants the Town of Gardiner the authority to enact local laws for the purpose of promoting the health safety and welfare of the Town,

and in accordance with Municipal Home Rule Law, Article 2, Section 10 that gives the Town of Gardiner the power to protect and enhance its physical environment.

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 rental 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.

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 guests experience by sharing the general rules of community conduct, private property considerations and the safety of residents and guests.

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 or Primary Resident’s absence. Such authorization must be on file with the Town and with the appropriate Fire/Rescue Service.

Owner – An individual or group of individuals who are in possession of and have a fee interest in real property. The term “owner” shall not include a business entity or association, receiver, or a mortgagee or lien holder.

Primary Residence – A person’s domicile where they usually live, typically a house or an apartment. A person can only have one primary residence at any given time, though they may share the residence with other people. A primary residence is considered to be a legal residence for the purpose of income tax and/or acquiring a mortgage.

Resident Occupied Short-Term Rental (STR) – An STR that is being occupied by the owner or some other individual as their Primary Residence. The rental of an entire private residence for more than thirty (30) days with no Primary Resident present.

Non-Resident Occupied Short Term Rental (STR) - An STR in which the entire Primary Residence is rented during which time no Primary Resident is present on the premises. Non-Resident Occupied STRs must have a designated local Host as

defined herein and comply with all other STR Standards. Non-Resident Occupied STRs can operate for a maximum 150 days in a calendar year.

Short Term Rental - A dwelling unit in a Primary Residence 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 as a commercial or non-residential use under the Town of Gardiner Zoning Law. For purposes of this definition, “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.

Section 3 - PERMIT REQUIREMENT AND APPLICATION PROCESS

- A. Permit Required. It shall be unlawful to use, establish, maintain, operate, occupy, rent, lease, or advertise for rent or lease, a STR without first having obtained a STR Permit. The failure or refusal to obtain a STR Permit shall be deemed a violation of this Law.
1. Resident-Occupied STR’s need to provide a completed bi-annual permit application and fee, as designated by the Town Board by Resolution.
 2. Non-Resident Occupied STR’s need to provide a completed annual permit application and fee, as designated by the Town Board by Resolution.
 3. All permits will expire on December 31st whether annual or bi-annual.
 4. An individual property owner can only register or have an interest in one (1) STR that is not Resident Occupied.
 5. Only the property owner is permitted to apply for a STR permit. STR Permits are not assignable or transferable.
 6. A STR Permit shall be good for two (2) calendar years for Resident-Occupied STRs, and; one (1) calendar year for Non-Resident Occupied STR’s. The total number of properties owned by or in which an interest is held by an Owner is limited to one (1) Primary Residence.
- B. STR Permit Application Requirements. An application for (or renewal of) a short-term rental permit shall be submitted to the Town Code Enforcement Officer on a form provided by the Town, signed by all persons and entities that have an ownership interest in the subject property. The STR Permit Application shall be accompanied by payment of a fee, to be determined by the Town Board, and the following additional information/ documentation:

1. A copy of the current deed to the property identifying the current property owner(s).
2. A signed authorization by the property owner(s) allowing the Town Code Enforcement Officer to enter the premises for purposes of conducting the annual safety and compliance inspection required under Section C(6) below.
3. For Resident-Occupied STR, a signed and notarized certification in a form acceptable to the Code Enforcement Officer by the individual resident(s) occupying the STR attesting that the subject property is their Primary Residence.
4. A safety/egress plan which shall be posted in a visible location and on the back of each bedroom door in that portion of the dwelling unit that is being used as a STR.
5. A parking layout plan identifying where parking is to be located is required. The parking layout plan shall accommodate sufficient parking for tenants and residents and meet the standards set forth in Section 3(C) below.
6. A waste removal plan meeting the standards set forth in Section 3(C) below.
7. For Non-Resident Occupied STR's, the name and contact information of the designated Host.

C. STR Standards. All STR shall meet the following standards:

- (1) Exterior lighting shall be utilized as appropriate to ensure safety, utility and security for renters, while also minimizing glare, protecting the privacy of residences, and reducing atmospheric light pollution to the extent practicable to enhance and protect the Town's nighttime ambiance and historic character. Property owners are encouraged to utilize lighting that is energy efficient.
- (2) For Non-Resident-Occupied STR, the name and contact information of the designated Host shall be provided to the Building Department and shall be posted in the STR. When the Host contact information changes the Building Department will be notified and STR posted Renter Notices shall be revised accordingly. Both the property owner and the Host will be responsible for responding to complaints from neighboring property owners in accordance with Section 8(B) below.

- (3) A STR shall be locatable on GPS and the address location shall be clearly marked on the STR property.
- (4) Exterior Advertising as an STR at the property location is not permitted.
- (5) 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 Building Department.
- (6) STR's must pass a yearly fire/safety inspection and the report of said inspection is to be attached to STR annual renewal permit applications. All STR units must comply with NYS Building Code requirements and shall have no open violations.
- (7) STR shall be limited to one rental at a time (multiple simultaneous rentals in a Primary Residence used as a STR are not permitted).
- (8) The STR shall not have more than ten (10) occupants renting at a time unless otherwise authorized in the STR Permit. A maximum capacity of two (2) guests per bedroom shall be permitted. Children 12 years old and under and not counted as guests.
- (9) Provisions shall be made for regular garbage collection. Garbage shall be placed within a container shall not be allowed to remain outside for a period greater than twenty-four (24) hours at curbside and. Property owner shall be responsible for clean-up of any garbage strewn or litter on visible on the STR property.
- (10) The parking layout plan shall include 1 parking space per bedroom plus 1 additional space. Parking design and placement shall be accommodated off-street and shall not restrict access for fire and safety vehicles. For properties with shared driveways, the parking must allow access to other property owners using the same driveway.
- (11) The designated Host of a Non-Resident Occupied STR will provide guests with copies of local laws, pertaining to noise, fire, safety requirements. Emergency contact information as well as a 911 address of property shall be clearly identifiable.
- (12) Renters shall be provided a property map that clearly depicts the property boundaries shall be provided. Street address of property shall be clearly identifiable from the street and shall be posted in a visible location on the bedroom door.
- (13) Approved STR's will be assigned a registration number that must be included in all rental listings, both print and on-line and posted within the STR.

- (14) Temporary Structures, Tents, Trailers and RV's are not contemplated in this regulation and are prohibited for the purpose of STR.
- (15) STR are prohibited in multi-family dwellings.
- (16) STR shall be permitted in all Zoning Districts with the exception of the CLI and SP 2 and SP 3.

Section 4 - PERMIT APPLICATION PROCESS

- A. Upon the filing with the Code Enforcement Officer of the STR permit application, permit fee, and all documents and information required by this Chapter, the Town Code Enforcement Officer shall have thirty (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 the denial. If a STR permit is issued, it shall bear the signature of the Town Code Enforcement Officer.
- B. In issuing a STR 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 or a portion of the property as a STR so long as such conditions and restrictions are consistent with the requirements of this Local Law and the Town Zoning Law, and are imposed for the purpose of minimizing adverse impacts on the neighborhood or community.

Section 5 - PERMIT DENIAL

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

1. 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.
2. The Town had revoked a previously issued STR permit within the past six (6) months and/or the conditions of the permit revocation have not been met.
3. The STR is not a Primary Residence.

Section 6 - FEES AND REPORTING

- A. 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.
- B. The Town Board may establish the maximum number of STR Permits issued by the Gardiner Code Enforcement Officer. This resolution may be amended or changed by the Town Board as needed.

Section 7 - 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:

- A. The complaining party shall first attempt to contact the contact person designated on the permit, describe the problem and indicate the desired remedy.
- B. The contact person shall respond to the complaint by phone or in person within two (2) hours and implement an appropriate remedy as soon as reasonably possible to address any non-compliance with these regulations or with the permit for the property.
- C. 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.
 - 1. If the Town Code Enforcement Officer finds a violation of the STR permit or of this local law, the Code Enforcement Officer will have

the discretion to take whatever enforcement measures deemed appropriate under the circumstances, taking into account the severity and nature of the violation, whether the violation was committed knowingly or intentionally and/or presented a risk to public safety. Enforcement actions that may be taken by the Code Enforcement Officer include, but not limited to: A warning to the property owner.

2. A modification of the STR permit to include reasonable conditions narrowly tailored to address and remedy the violation and prevent further violations during the permit term.
 3. Suspension of the STR permit in accordance with Section ____ above for a period of up to six (6) months; and
 4. Revocation of the STR permit.
- D. Should a STR permit be revoked, none of the owner of the short-term rental property may obtain any short-term rental permit sooner than six (6) months after the date of revocation.
- E. A decision to revoke, suspend or modify a STR Permit shall be provided to the property owner and may be appealed within thirty (30) days of receipt of the decision. The property owner shall make a written request for a hearing to the Town Board shall hear the appeal at its next regularly scheduled meeting, during which time the decision of the Code Enforcement Officer shall be stayed. At the hearing, the Town Board shall accept evidence offered by the property owner, the Code Enforcement Officer and any other witness with relevant evidence. After the hearing, the Town Board shall decide the appeal, and in so doing, may uphold the Code Enforcement Officer's decision, reject it, or modify it.
- F. Notwithstanding the foregoing, the Town Board reserves the right to commence an action for injunctive relief at any time following receipt of a complaint to enjoin violations of this Local Law if deemed necessary to protect the public health, safety and welfare.
- G. A failure to obtain an STR Permit required under Section 3(A) of this Law shall be punishable by a fine or penalty of not less than one hundred and fifty (\$150) dollars nor greater than five hundred (\$500) dollar; a conviction of a second offense, within a period of five (5) years of the first conviction,

shall be punishable by a fine or penalty of not less than five-hundred (\$500) dollars nor greater than (\$1,000) dollars. Each week or part thereof the violation continues shall be deemed a separate and distinct offense punishable in like manner. The Code Enforcement Officer is authorized to issue appearance tickets for violations of this Local Law consistent with the enforcement provisions of the Town of Gardiner Zoning Law.

Section 8 – EFFECTIVE DATE

This law shall become effective upon the filing with the Secretary of the State of New York.

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