

RESOLUTION OF INTRODUCTION

Councilmember Murphy, seconded by Councilmember Audi A, introduced the following proposed local law, to be known as Local Law No. _____ of the Year 2023 of the Town of Washington, Dutchess County, New York:

BE IT ENACTED by the Town Board of the Town of Washington as follows:

A local law of the Town of Washington amending the Town Code of the Town of Washington to add Chapter 166 Entitled: Short-Term Rentals.

Section I. Title.

This local law shall be known as and may be cited as Local Law No. ___ of 2023, to amend the Washington Town Code to add Chapter 166 entitled "Short-Term Rentals" requiring owners to obtain a Short-Term Rental Permit from the Town of Washington in order to continue or commence operation of a Short-Term Rental.

Section II. Authorization.

The adoption of this Local Law is in accordance with §264 of the New York Town Law and §10 of the New York Municipal Home Rule Law.

Section III. Legislative Intent and purpose.

The Town recognizes that Short-Term Rentals provide economic benefits to the Town and allow property owners to earn supplemental income. The Town, however, also recognizes that it would be beneficial for the Town to control and regulate the use of Short-Term Rentals within the Town of Washington. The provisions of this section are intended to preserve and protect the health, character, safety, and general welfare of the residents of and visitors to the Town and to mitigate the adverse effects of Short-Term Rentals.

Section IV. Amendment.

The Washington Town Code shall be amended to add Chapter 166 entitled "Short-Term Rentals" as follows:

§166.1 Definitions.

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

Owner or Owners – Owner or Owners shall include the person or people actually owning real property, a person or people holding membership interests in a limited liability company, a

person or people holding a partnership interest in a partnership or limited liability partnership, the trustee or trustees or a trust, a person or people owner shares in a corporation.

Code Enforcement Officer – The term “Code Enforcement Officer” shall include the Building Inspector, the Zoning Administrator, the Code Enforcement Officer and any other person charges with enforcing the Code or local laws of the Town and any applicable building, fire and residential codes of New York State.

Short-Term Rental - Any portion of a dwelling unit or housing unit (as defined in any applicable NYS Fire, Building or Residential Code) rented for compensation in exchange for lodging for a period of not more than thirty-one (31) consecutive days, including the primary structure or a permanent accessory structure. This may not include campgrounds, tent sites or tent platforms, and other temporary structures on the parcel. For the purpose of this Chapter, the term "Short-Term Rental" shall not include a bed-and-breakfast, boarding/lodging house, hotel, motel, or ongoing month-to-month tenancies. In addition, there shall be no more than one Short-Term Rental per property. Short-Term Rentals are allowed everywhere in the Town regardless of the zoning district.

§166.2 Presumption of Dwelling Unit as Short-Term Rental Property.

A. The presence of the following shall create a presumption that all or a part of the property is being used as a Short-Term Rental:

(1) All or a part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO, for a rental period of less than thirty-one (31) days; and/or

(2) All or a part of the property is offered for lease for a period of thirty-one (31) days or less through any form of advertising.

B. The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the premises is not operated as a Short-Term Rental.

§166.3 Required Permit.

A. Owners shall not advertise or use their property as a Short-Term Rental without obtaining a revocable Short-Term Rental permit in advance. Short-Term Rental permits shall be limited to two permits for each owner for each two-year cycle. Only an owner or owners of the property can obtain a Short-Term Rental permit (meaning that tenants or other occupants cannot apply for or obtain one).

B. A Short-Term Rental Permit shall be valid for two (2) years and must be renewed thirty (30) days prior to expiration of current permit if the premises is to continue to operate as a Short-Term Rental.

C. The Short-Term Rental permit is not transferable to a new owner. The new owner of the

premises subject to a Short-Term Rental permit must file a new permit application.

D. Notwithstanding the foregoing, those properties with Short-Term Rental commitments existing on the date this section takes effect shall be permitted to honor such existing commitments and continue to make commitments for Short-Term Rentals, but must apply for a permit within 180 days of the Local Laws effective date for all future Short-Term Rental commitments. In the event such application is denied, all commitments shall be cancelled.

§166.4 Short-Term Rental Permit Application Requirements.

A. Applications and application forms for a Short-Term Rental Permit may be obtained at the Town of Washington Town Hall or Town website and fully completed applications shall be submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable application fee to be determined from time to time by resolution of the Town Board. The application shall include the following:

- (1) The signatures of all property owners or their designated agents.
- (2) A statement authorizing the Code Enforcement Officer or his designee to inspect the property to ensure compliance with all requirements and standards contained within this chapter.
- (3) An acknowledgment of present and ongoing compliance with the Short-Term Rental Standards as defined in this chapter, including, but not limited to, the demonstration of adequate off-road parking spaces for the proposed Short-Term Rental and proof of a garbage and waste storage and disposal plan.
- (4) A list of each property owner and the name of any manager or management agency managing the property, or other party responsible for maintaining the property in the owner's absence, including names, addresses, telephone numbers and email addresses of each individual.
- (5) The name, address, telephone number and email address of a local contact person, who shall be responsible and authorized to act on the owner's behalf to promptly remedy any violation of the standards outlined in this Section. The contact person may be an owner, or an agent designated by the owner(s) to serve as a contact person, and shall respond to any correspondence or concern from the Town Code Enforcement Officer within twenty-four (24) hours.
- (6) An accurate suitable floor plan for each level of the dwelling that can be occupied measuring at least 8.5 by 11 inches, and a plot plan, both drawn to scale and certified by the applicant. The floor plan and plot plan do not need to be prepared by a professional, but must include the following:
 - a. The location of buildings, required parking spaces, any swimming pools, hot tubs and spas.

- b. Basement location of house utilities and all rooms including bedrooms, windows, exits and any heating/cooling units.
- c. First floor all rooms including bedrooms, windows, exits and any heating/cooling units.
- d. Second floor all rooms including bedrooms, windows, exits and any heating/cooling units.
- e. Attic (if present) all rooms including bedrooms, windows, exits and any heating/cooling units.
- f. All rooms which are not included in the Short-Term Rental must also be shown.

(7) A statement that none of the owners of the subject property have had a Short-Term Rental permit revoked within the previous year for any rental properties owned individually or together with others.

B. All completed applications are subject to a Floor Plan Review and Approval by the Code Enforcement Officer.

C. Owners wishing to apply for a variance relating to sleeping capacity, parking capacity, or other standards stated below must petition to the Zoning Board of Appeals. Variance applications will be reviewed and decided by the Zoning Board of Appeals.

§166.5 Short-Term Rental Standards.

A. Property Requirements

- (1) Property must comply with and meet all applicable NYS Uniform Building Codes.
- (2) There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
- (3) Evacuation procedures must be posted in each sleeping room to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting or other alarm device.
- (4) There shall be an ABC fire extinguisher on each floor and in the kitchen. Fire extinguishers shall be inspected prior to a renter occupying the property and no less than monthly by the permit holder(s) to ensure each contains a full charge. A record of the date inspected initialed by the permit holder shall be maintained and made available to the Code Enforcement Officer upon request.
- (5) The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.
- (6) Exterior doors shall be operational and all passageways to exterior doors shall be

clear and unobstructed.

(7) Electrical systems shall be in good operating condition, labeled, unobstructed and shall be visible for the Code Enforcement Officer during the permitting process. Any defects found shall be corrected prior to permit issuance.

(8) All fireplaces, woodstoves, pellet stoves and similar heating devices shall comply with all applicable laws and regulations.

(9) The property must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application.

(10) Maximum occupancy for each Short-Term rental unit shall not exceed two (2) people per bedroom shown on the floor plan included with the application and two (2) people per minimum full size convertible sleeping accommodation furniture (e.g. futon, hide-a-bed) also identified on the floor plan. The maximum occupancy of a Short-Term rental Unit shall not exceed twelve (12) people, including permanent residents and renters.

(11) In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any Short-Term Rental Unit exceed twelve (12) people total.

(12) A septic system at the property must meet all state and county requirements.

(13) The septic system must have been pumped within the past four (4) years and proof of pumping and satisfactory inspection by a qualified septic disposal firm shall be available to the Code Enforcement Officer. Once a Short-Term Rental permit is issued, the septic system must be pumped at least once every four (4) years.

(14) The water supply to the property must meet all State and county requirements.

(15) No outdoor signage advertising the Short-Term Rental is allowed on the property.

(16) For properties in an R1 zone or zoning district, or for properties of less than one acre, the properties must have side yard and rear yard fencing, stone walls or continuous hedges to show occupants where the property lines are.

(17) For properties which include a swimming pool, there must be water safety equipment on the property, in plain view and within 10 feet of the edges of the swimming pool and a water alarm activated by water disturbance (unless an auto safety cover exists).

B. Insurance Standards

All applicants and permit holders must provide Evidence of Property Insurance and a

Certificate of Liability Insurance indicating the premises is rated as a Short-Term Rental and maintain such insurance throughout the Term of the Short-Term Rental permit. The amounts for the insurance coverage shall be set by the Town Board as part of the Town's fee schedule(s).

C. Waste Removal 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 road except at approximate pickup time.

D. Rental Contract applicants and permit holders must have a rental contract, which includes the following:

- (1) Maximum property occupancy;
- (2) Maximum on-site parking provided; and
- (3) Good Neighbor Statement stating:
 - a. The Short-Term Rental renters should be considerate of the residents in neighboring homes.
 - b. Guests are requested to observe quiet hours from 11:00 p.m. to 7:00 a.m.;
 - c. All renters will be subject to New York Penal Law §240.20 or any successor statute regarding disorderly conduct;
 - d. Littering is illegal;
 - e. Recreational campfires must be attended;
 - f. Hunting, the discharge of firearms, pyrotechnics, motorcycles, motor cross and off-road vehicles shall not be permitted or operated on the property which is subject to a Short-Term Rental.

§166.6 Procedure Upon Filing Application

A. Short-Term Rental permit applications shall be filed with the Town of Washington Code Enforcement Officer with all supporting documentation and the nonrefundable permit fee. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:

- (1) The application documentation required by this Section was not included or the full permit fee was not paid.
- (2) A previously issued Short-Term Rental permit was revoked within the past year and defects and/or violations have not been corrected and inspected by the Code Enforcement Officer.

B. Upon receipt of a completed Short-Term Rental permit application, adjacent property owners of the Short-Term rental will be notified of the application by the applicants by certified mail, return receipt requested. That notice shall contain all of the contact information identified in Section 166.4(A)(5) and a statement that the local contact person must promptly remedy complaints of violations.

C. Upon the Code Enforcement Officers acceptance of the completed permit application, including all documents and information required by this Section and the permit fee, the Code Enforcement Officer shall have thirty (30) days to conduct a property inspection to certify and approve that all Short-Term Rental requirements have been met.

D. Upon approval of the Short-Term Rental Application by the Code Enforcement Officer, a Short-Term Rental Permit will be issued. Short-Term Rental permits issued pursuant to this Section shall state the following:

- (1) The names, addresses, and phone numbers of each person or entity that has an ownership interest in the Short-Term Rental property.
- (2) The name, address, and phone number of a primary local contact person who shall be available during the entire time the Short-Term Rental property is being rented.
- (3) The maximum occupancy and vehicle limits for the Short-Term Rental property.
- (4) Identification of the number of and location of parking spaces available.
- (5) Any conditions imposed by the Zoning Board of Appeals and/or Code Enforcement Officer.
- (6) The phone numbers for local emergency services (e.g. fire, police, EMT).

§166.7 Conformity and Display of Permit.

A. Short-Term Rental permits are subject to continued compliance with the requirements of these regulations.

(1) If the Code Enforcement Officer has probable cause to believe that the homeowner is not in compliance with the provisions of this Law, the Code Enforcement Officer may request permission from the Short-Term Rental permit holder to enter the premises and to conduct an inspection of the Short-Term Rental property for purposes of ensuring compliance with this Section. If the property owner refuses to permit the Code Enforcement Officer to inspect the property, the permit will be revoked. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to revoke the permit.

(2) The Short-Term Rental permit, maximum occupancy limit, maximum parking, contact form and standards shall be prominently displayed inside and near the front entrance of the Short-Term rental; and

(3) The Short-Term Rental permit holder shall ensure that current and accurate information is provided to the Code Enforcement Officer and that the Code Enforcement Officer is notified immediately of any change in the information displayed on the permit. If, based on such changes, the Code Enforcement Officer issues an amended Short-Term Rental permit, the owner(s) must immediately post the amended permit inside and near the front entrance of the Short-Term Rental.

(4) The Short-Term Rental permit holder must conspicuously display the Short-Term

Rental permit number in all advertisements for the applicable Short-Term Rental.

§166.8 Compliance and Penalties.

Violations of this Chapter or of any Short-Term Rental permit issued pursuant to this Chapter shall be subject to enforcement and penalties prescribed in this Chapter and in the Zoning Code of the Town of Washington in relation to fines and additional penalties.

A. If the Code Enforcement Officer either witnesses or receives a written complaint (unless the suspected violation life, health or safety, in which case the Code Enforcement Officer is authorized to act on an oral complaint) of an alleged violation of this Chapter or of any Short-Term Rental permit issued pursuant to this Chapter, the Code Enforcement Officer shall properly record such complaint and immediately investigate the report thereon. If the Code Enforcement Officer determines there is a violation of this Code or this Chapter, the owners shall be notified in writing by certified or registered mail, or personal service, of said violations and the Code Enforcement Officer may take any or all of the following actions:

- (1) Attach conditions to the existing Short-Term Rental permit.
- (2) Suspend the Short-Term Rental permit. The Notice of Suspension shall be provided to the property owner and a copy filed with the Town Clerk.
- (3) Require corrective action that remedies the violation(s). The corrective action must be completed and approved within thirty (30) days of Notice from the Code Enforcement Officer or the owner risks revocation of the Short-Term Rental permit.
- (4) Issue a court appearance ticket for violation of a Town law.
- (5) Revoke the Short-Term Rental permit. Should a permit be revoked, all owners of the Short-Term Rental are prohibited from obtaining a Short-Term Rental permit on the property for one (1) year after the date of revocation. The Code Enforcement Officer shall send a Notices of Revocation to property owner(s) and shall file a copy with the Town Clerk.

§166.9 Application for Renewal of Permit.

Renewal permits will be granted for an additional two-year term if the following conditions are met:

- A. Application for renewal of the Short-Term Rental permit shall be made at least sixty (60) days prior to expiration of current permit and requires payment of renewal fee.
- B. At the time of application for renewal, the owner or designated agent must present the previous permit for Short-Term Rental.
- C. The property must have undergone re-inspection performed by the Code Enforcement Officer.
- D. Any violations, whether previously issued or observed during the re-inspection, must be remedied prior to renewal of a permit for Short-Term Rental.

§166.10 Grounds for Suspension or Revocation of Permit.

A. The Code Enforcement Officer may immediately suspend a Short-Term Rental permit based on any of the following grounds:

- (1) Applicant has falsified or failed to provide information in the application for a permit or the application for permit renewal.
- (2) Applicant failed to meet or comply with any of the requirements of this Chapter.
- (3) Owner is in violation of any provision of the Code of the Town of Washington or the New York State Uniform Fire Prevention and Building Code.
- (4) Owner has violated any provision of the Penal Code of the State of New York, which violation occurred at, or related to the occupancy of the Short-Term Rental.
- (5) Any conduct on the premises, which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.
- (6) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

§166.11 Appeals and Hearings.

The property owner is entitled to appeal the Code Enforcement Officer's determination to the Zoning Board of Appeals when a property owner's application for a Short-Term Rental Permit or a Short-Term Rental Permit Renewal is denied or a Short-Term Rental Permit is revoked. A Notice of Appeal shall be filed with the Town Clerk and the Zoning Board of Appeals within sixty (60) days of the Code Enforcement Officer's filing of the denial or revocation with the Town Clerk. A hearing shall be held by the Zoning Board of Appeals not more than forty-five (45) days after the filing of the Notice of Appeal.

Section V. Amendment of Zoning Code

The Zoning Code of the Town of Washington is amended to add a new Section 349 entitled Short-Term Rentals, the body of which shall read: "Short-Term Rentals are regulated pursuant to Chapter 166 of the Town Code."

Section VI. Validity and Severability

Should any word, section, clause, paragraph, sentence, part, or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VII. Repeal, Amendment and Supersession of Other Laws

All other ordinances or local laws of the Town of Washington which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period.

Section VIII. Effective Date

This Local Law will take effect upon filing in the office of the New York State Secretary of State.

Councilmember murphy advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this law. Councilmember Murphy offered the following Resolution, which was seconded by Councilmember Audin, who moved its adoption.

RESOLVED, the Town Board hereby declares this action to be a Type I action pursuant to the State Environmental Quality Review Act (SEQRA), declares its intent to serve as Lead Agency in the review of this action and authorizes the circulation of the Full Environmental Assessment Form filed herewith; and be it further

RESOLVED, that any referrals or notices required by the NYS General Municipal Law be made; and be it further

RESOLVED, that a public hearing be held in relation to the proposed local law as set forth in the form of notice, hereinafter provided, at which hearing persons interested shall have an opportunity to be heard, to be held at the Town Hall, 10 Reservoir Drive, Millbrook, New York, on July 13, 2023 at 6:00 o'clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Washington, by the Town Clerk, at least five (5) days before such hearing and that notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Washington will hold a public hearing at the Town Hall, 10 Reservoir Drive, Millbrook, New York on July 13, 2023 at 6:00 o'clock p.m., on Local Law No. _____ of the Year 2023, entitled A LOCAL LAW OF THE TOWN OF WASHINGTON AMENDING THE TOWN CODE OF THE TOWN OF WASHINGTON TO ADD CHAPTER 166 ENTITLED: "SHORT-TERM RENTALS".

TAKE FURTHER NOTICE, that all persons interested shall have an opportunity to be heard on said proposal at the time and place aforesaid.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Washington, at the Town Hall, 10 Reservoir Drive, Millbrook, New York between the hours of 9:00 a.m. to 12:30 p.m. and then between 1:30 p.m. to 3:00 p.m. on all business days between the date of this notice and the date of the public hearing.

DATED: Millbrook, New York
June 8, 2023



MARY ALEX, TOWN CLERK

The foregoing Resolution was duly put to a vote which resulted as follows:

Supervisor Ciferri	<u>Aye</u>
Councilmember Audia	<u>Aye</u>
Councilmember Heaney	<u>Aye</u>
Councilmember Murphy	<u>Aye</u>
Councilmember Rochfort	<u>Aye</u>

DATED: Millbrook, New York
June 8, 2023



CHRISTINE BRIGGS,

Deputy Town Clerk
Town of Washington