

## RESOLUTION OF ADOPTION

Councilmember Michael Murphy offered the following Resolution, which was seconded by Councilmember Robert Audia, who moved for its adoption:

WHEREAS, a local law was introduced entitled A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK, IDENTIFIED AS LOCAL LAW NO. 1 OF 2024 AMENDING THE TOWN CODE OF THE TOWN OF WASHINGTON TO ADD CHAPTER 166 ENTITLED: "SHORT-TERM RENTALS"; and

WHEREAS, on June 8, 2023 the Town Board classified the action as a Type I action pursuant to the State Environmental Quality Review Act (SEQRA), declared its intent to serve as lead agency and authorized the circulation of a Full Environmental Assessment Form, Part 1; and

WHEREAS, on June 8, 2023, the Town Board directed that any referral required by General Municipal Law Section 239 be made; and

WHEREAS, the proposed local law and the Full Environmental Assessment Form, Part 1, were referred to the Dutchess County Department of Planning and Development, the Town of Washington Planning Board and the Town of Washington Conservation Advisory Commission; and

WHEREAS, a written response dated June 30, 2023 was received from the Dutchess County Department of Planning and Development, a redlined version of the local law was received from the Town of Washington Planning Board, and a written response dated July 12, 2023 was received from the Town of Washington Conservation Advisory Commission; and

WHEREAS, the recommendation from the Dutchess County Department of Planning and Development was that the Town "Board rely upon its own study of the facts in this case with due

consideration of the above comments”, and the Town Board did, in fact, make various changes to the proposed local law based upon said comments; and

WHEREAS, a public hearing in relation to said local law was held on July 13, 2023 at 6:00 p.m., Prevailing Time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, based upon the written comments and comments made at the public hearing, revisions were made to the proposed local law and some were substantive in nature; and

WHEREAS, on August 24, 2023, the Town Board introduced a revised proposed local law and scheduled a public hearing for September 14, 2023 at 6:00 p.m. Prevailing Time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York and the revised proposed local law was posted for review; and

WHEREAS, the additional public hearing in relation to said local law was held on September 14, 2023 at 6:00 p.m., Prevailing Time; and

WHEREAS, the Town Board received a comment letter from the CAC dated September 7, 2023; and

WHEREAS, further changes and revisions were made to the proposed local law and some were substantive in nature; and

WHEREAS, on December 14, 2023, the Town Board introduced a revised proposed local law and scheduled a public hearing for January 10, 2024 at 6:00 p.m. Prevailing Time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York and the revised proposed local law was posted for review; and

WHEREAS, the additional public hearing in relation to said local law was held on January 10, 2024 at 6:00 p.m., Prevailing Time; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Washington for at least seven (7) days, exclusive of Sunday.

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Washington, as lead agency has previously declared this action to be a Type I action pursuant to the State Environmental Quality Review Act (SEQRA), and hereby approves Parts 2 and 3 of the Full Environmental Assessment Form and determines that the proposed action will not result in a significant adverse impact on the environment and thus declares, authorizes and approves that a negative declaration be issued and authorizes the Supervisor to execute that Form where required; and

BE IT FURTHER RESOLVED that the Town Board of the Town of Washington adopts and enacts the local law as follows:

**TOWN OF WASHINGTON LOCAL LAW NO. 1 OF THE YEAR 2024**

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

Section I. Title.

This local law shall be known as and may be cited as Local Law No. \_\_\_ of 2024, 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.

The Town is concerned that an excessive number of Short-Term Rental permits in the Town may drive up the cost of housing and may lead to visitors and occupants in the Town who are less interested in and invested in the community as a whole. Therefore, the Town imposes limitations as defined herein to address those concerns.

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, or a person or people owning shares in a corporation, when any such an entity owns the real property.

Code Enforcement Officer – The term “Code Enforcement Officer shall include the Building Inspector, the Zoning Administrator, the Code Enforcement Officer and any other person charged 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 are not operated as a Short-Term Rental.

§166.3 Required Permit; Limitations on Short-Term Rental Permits.

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 one permit for any owner(s) 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). In addition, in order to qualify for the issuance of a Short-Term Rental permit, one of the owners must meet the following criteria:

(1) At least one of the owners must have owned the property (or maintained an ownership interest in the entity which owns the property) which is the proposed site of the Short-Term Rental for a period of at least one year before applying for a Short-Term Rental permit.

(2) At all times during which a Short-Term Rental permit is in effect, and for the year immediately preceding the issuance of a Short-Term Rental permit, at least one of the owners must reside in the dwelling unit or housing unit (or in the case of an accessory structure in the primary structure) for at least one hundred days per year.

(3) At no time shall there be more than forty (40) Short-Term Rental permits in effect for properties in the Town of Washington (exclusive of the Village of Millbrook).

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 are 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 Chapter 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 Law's 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, 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 for and authorized to act on the owners behalf to promptly remedy any violation of the standards outlined in this Chapter. 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 plot 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 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 (i.e. futon, hide-a-bed) also identified on the floor plan. The maximum occupancy of a Short-Term Rental Unit shall not exceed eight (8) 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 eight (8) 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 are 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 at all times;
  - 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 Chapter 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 Chapter 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 Chapter 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. "Local" for this purpose shall mean that the contact person can arrive at the property to respond to a complaint within 30 minutes of receiving the complaint.
- (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 permit holder 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 is of life, health or safety matters, 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 a 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 (or permit holder) risks revocation of the Short-Term Rental permit.
- (4) Issue a court appearance ticket for violation of 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 thirty (30) 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.

BE IT FURTHER RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York.

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  
January 11, 2024

  
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CHRISSEY BRIGGS, Town Clerk or  
KRISTEN DIFIIORE, Deputy Town Clerk  
Town of Washington