

NEW YORK

STATE OF OPPORTUNITY

Division of Local Government Services

Short-Term Rental Regulation


A Division of the New York Department of State

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Overview

- Definition
- Trends
- Challenges
- Approaches to regulation
- Sample regulations
- Case law
- Resources




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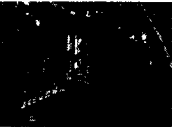
Short-Term Rental

Short-term rental aka **STR** or *vacation rental*

- Rental of **all or part** of a residential dwelling for a period of 30 days or less
- Includes traditional and non-traditional housing types
- Offered by property owners and renters that lease property



Watkins Glen, Schuyler County



Tree House, Washington County

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More definitions and important distinctions

- **Host:** person/entity offering the unit or bedroom for rent
- **Hosted:** host is on-site during rental and resides at property
- **Un-hosted:** host does not live on-site; host is not on-site during rental period
- **Primary vs. Non-primary residence:** refers to whether property being rented is host's main residence
 - Regulating based on where owner lives has been found to be unconstitutional

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From No Tech to High Tech

Time-honored practice + Tech

- **Yesterday:** community bulletins
- **Today:** cellphone apps
- Widespread marketing across platforms
- Connects travelers to hosts with ease
- Online-only interactions for negotiation, most communication, payment and mutual evaluation

100%+ market growth of STRs from 2016-2019 in US

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An Evolving Industry

Expanding entrants to the industry:

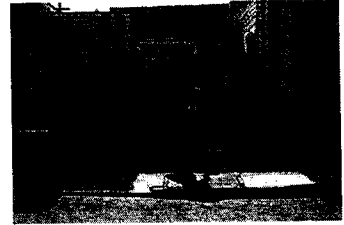
Hospitality chains, multi-family asset holders, large-scale institutions, iRenters

- Lease or build units for use as short-term rentals
- Offer amenity-rich properties (e.g. concierge services)
- May reconfigure existing units (renting individual rooms in single family homes)

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Benefits of Short-Term Rentals

- Potential for revenue for homeowners
- Fun for guests to experience living in other places
- Potential improvement of blighted properties



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Challenges of Short-Term Rentals

For competitors (hotels/bnb's):

- Lower cost to do business
- Location

For local governments:

- Nuisances: parking, noise, waste, light
- Loss of long-term rentals
- Real estate speculation
- Loss of neighborhood character from displacement
- Absence of statewide tax and safety framework



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What makes a place right for short-term rentals?

- Location
- Shortage of traditional lodging
- High-cost traditional lodging
- Lack of regulation of short-term rentals



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NYS Multiple Dwellings Law

Prohibits rentals of less 30 days in "Class A" multiple dwellings (buildings occupied by three or more families living independently) **without a host present**

NYC Administrative Code

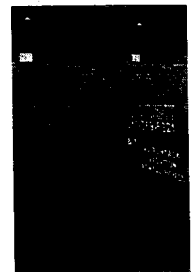
Prohibits changes to use, occupancy or egress of a building; **STRs in non-Class A buildings are illegal, unless expressly authorized**



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Other Short-Term Rentals in NYS

- As for other uses, no requirement for local government to acknowledge short term rentals as a use
- Definitions vary from place to place
- Up to each municipality to define, prohibit and/or regulate short term rentals as they choose




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Popular places upstate for short term rentals

- Finger Lakes
 - Ithaca, Cooperstown, Watkins Glen
- Hudson Valley Region
 - Beacon, Catskills, Woodstock
 - Airbnb's **most** traveled corridor in NY
- North Country
 - Lake Placid, Wilmington, Plattsburgh
- Western NY
 - Buffalo, Niagara Falls



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Regulation Tips

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Start with clear objectives

Consider comprehensive plan objectives & goals

- Provides a foundation

Agree on goals short term rental regulations should accomplish

- Before discussing technical details
- Evaluate draft against these goals

Simpler regulations can more easily be enforced!


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Clear Definitions

Define short-term rental, include:

- Rental period (e.g. up to 30 nights)
- Distinguish from similar uses (e.g. hotels, motels, bnb's, etc.) with clear definitions for each
- Or specifically include among "lodging" uses
- Define terms used (e.g. hosted, un-hosted, etc.)



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Clear Definitions

Town of Queensbury
 SHORT-TERM RENTAL – A dwelling unit, which may or may not be inhabited by the owner of record or their immediate family, that is rented, in whole or in part, for a period of less than thirty (30) consecutive days to any person or entity, but not including a Hotel, Motel, Inn, Campground, Bed and Breakfast as defined in Town Code Chapter 179.

Village of Skaneateles
 DWELLING - Any building or structure, or part thereof, used and occupied for human habitation or intended to be so used. The terms "dwelling," "dwelling unit," "one-family dwelling," "two-family dwelling," "multifamily dwelling" and "townhouse dwelling" shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy of less than 30 days.

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Registration

- Makes enforcement possible
- Keep it simple but collect
 - Owner or local agent name
 - unit being rented
 - party responsible for addressing violations
- Require hosts to share contact information with neighbors to report violations
- Establish a renewal period. Consider automatic renewal if no complaints by neighbors
- Revoke for failure to comply with regulations

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Record Keeping, Occupancy Taxes

Data for compliance & tax collection

Host collects, stores and reports data

- Reporting period options:
 - Cyclically (Jan., April, July, Oct.),
 - Upon inspection
 - When under investigation

Airbnb vs. City of New York

- Required data on hosts; Invalidated by court
- Seen as an infringement on host privacy rights

Airbnb collects occupancy taxes in 35 New York counties

Collected data

- ☐ Rental dates
- ☐ Assigned rooms
- ☐ Hosted or Un-hosted stay
- ☐ Revenue earned

As recommended by the Sustainable Economies Law Center

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Sample Restrictions

Quantitative

- Restrict by zoning district
- Cap total annual number of rental nights
- Cap number of permits
- Restrict by proximity

Operational

- Advertisements, signage
- Rental period & frequency
- Noise, Trash disposal
- Emergency access
- Mandatory designated representatives
- Occupancy Limits
- Parking

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Health and safety, nuisance standards

Emergency evacuation plan and diagrams required for permit

Provision of emergency equipment:

- Smoke and carbon monoxide detectors, and fire extinguishers
- Inspections

Prohibit nuisance behavior by renters

- Provided to renters, enforced by owner/agent
- Rules filed with enforcement official

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Sample Regulations

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Village of Rhinebeck, Dutchess County

Key features:

- Permitted in R, VC and MP districts
- STR distance requirements
- Must be owner's primary residence (Has been found unconstitutional)
- Un-hosted units require a property manager available 24 hours a day
- Caps # of permits at 15 annually

Limits:

- 6 guests with 2 per bedroom max.
- Rental to 16 days p/year - including a 7-day gap between rentals



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Village of Rhinebeck

Key features (continued):

Prohibits:

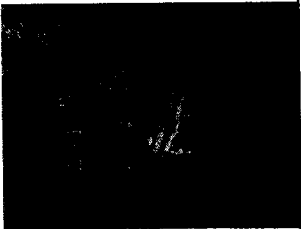
- On-premise advertisements
- Driveway expansions

Requires:

- Annual inspection
- Annual permit
- Planning Board approval

Violations:

- First: \$1,000 fine
- Second: permit revoked



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City of Buffalo

Key features:

Defined as: "rental of a dwelling unit for... 1 to 30 days with no in-room cooking facilities, but may include dining facilities and common meeting rooms"

Specifically excludes: hotels, motels, B and B's, boarding houses, or dwellings that include medical services

Non-owner-occupied rentals require approval via Special Use Permit



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City of Buffalo

Requires:


- Annual registration of property
 - STR certificate
- Annual inspection and renewal fee

Rental agreements must include:

- A smoking policy (if, where and when it is allowed or prohibited)

Violations:

- up to a \$1,500 fine and/or up to 15 days imprisonment
- doubled renewal fee
- fine of \$75 in addition to revocation of certificate



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City of Buffalo

License may be revoked if:

- Issued in error
- Conditions are unfulfilled, including correction of violations
- If the structure, use or occupancy is altered without required permits
- More than 3 noise violations in one year

- Includes path for suspension of license and process, how property owners will be notified of violations, and appeals
- Includes obligations of tenants during rental:
 - Proper trash disposal, maintaining clear access to exits, controlling domestic animals, and maintenance of the property in a sanitary manner.

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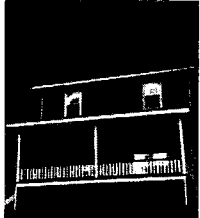
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Village of Cooperstown, Otsego County

Regulations cited the comprehensive plan objective "*to update zoning regulations to ensure that a diversity of housing types is permitted within the village*".

Key features:

- Allowed in Residential Conservation (R1), Business, and Commercial districts
- In R1, allowed **only** in SF, ADU in an SF previously approved accessory apt.
- In Commercial or Business districts, permitted in any building type




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Village of Cooperstown

Requires:

- Annual inspection & registration
- Submittal of a Floor Plan
- Special Use Permit by ZBA
 - May include conditions:
 - Valid until end of current year **plus** 2yrs
 - Followed by registration w/ ZEO
- An operator who must be:
 - Owner or min. 50% owner in R1
 - Owner or agent in Business or Commercial districts




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Village of Cooperstown

Includes provisions for:

- Parking
- Access & Circulation
- Site Lighting
- Requires a plan including each
- Maximum occupancy in residential districts (10 persons)
- Proof of compliance w/ County bed tax requirement (renewal)
- Provisions for termination of registration and use permit
- Conversion to long-term occupancy
- Key Exception: Hall of Fame Induction Weekend**



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Town of Queensbury, Warren County

A different approach: No permit – “self regulating”

Key features:

- Defines short-term rental
- Incorporates safety standards
- Owners must establish written rules
- Quiet hours between 10:00 pm – 8:00 am
- Weekly garbage removal during rental periods
- Occupancy limits: 2 people per bedroom, plus 2



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Town of Queensbury

Other standards:

- **Parking limits**
 - Parking limited to available number of spaces
 - 1.5 vehicles per bedroom; Overnight on-street parking prohibited
- **Contact person**
 - Provided to adjacent property owners, and made available upon demand by law enforcement or code officials
 - Must address complaints within 1 hour of receipt
 - Responses documented and submitted to town within 24 hours
- **Violations:**
 - Fines no more than \$950

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Legal Challenges to Local Short-Term Rental Regulation

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Definitions

Fruchter v. Zoning Board of Appeals of the Town of Hurley
(Appellate Division, 3rd Department, 2015)

- Board treated STR's as a bed and breakfast, but lacked a proper definition to require a special use permit

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Short-Term Rental Ban

“Webster Case” – Matter of DeVogelaere
(Appellate Division, 4th Department, 2011)

- Town amended zoning to prohibit rental of a dwelling of less than 28 days.

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Short-Term Rental Ban – Not a taking

Wallace v. Town of Grand Island (Appellate Division, 4th Department, 2020)

- Town changed zoning to prohibit short-term rentals, with amortization periods. Owner applies for a use variance to continue operation; ZBA denied. Court: property owner not “constitutionally entitled to most beneficial use.”

Credit v. Town of Southold ZBA (Appellate Division, 2nd Department, 2020)

- ZBA Interpretation: Short-term rentals were never permitted in the residential district because they are similar to commercial hotel/motel definition. Courts agreed.

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Lake Placid and North Elba

- Vacation rentals inflated real estate for years
- Increased with online rental platforms, affordable housing crisis
- Following a study, town and village passed a shared short-term rental law in 2020, delayed enforcement
- 90 days maximum short-term rental does not apply to owner-occupants; condominiums or townhouses with homeowners' associations; and rentals in Village Center and Gateway zones
- Requires local manager

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Calvey et al. v. T of North Elba and V of Lake Placid

Out of town owners immediately filed in federal court challenging law's violation of

- Equal protection
- Unreasonable search and seizure
- Property rights
- Due process
- Taking
- Contract clauses in state and federal constitutions
- First Amendment Rights

Court dismissed nearly all, owners dropped, law in revision.

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Hignell-Stark et al. v. City of New Orleans (2022)

Constitutional challenges to New Orleans restrictions on short term rentals:

- 1) Takings for non-renewal;
- 2) Residence requirement violation of Commerce Clause

Fifth Circuit of US Court of Appeals ruled:

- 1) No, permit is a privilege not a right
- 2) Residence requirement violates interstate commerce because of difference in treatment of economic interests.

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Conclusion

- Short-term rentals are controversial because of their benefits to owners and challenges to competition and community
- There is **no** one-size-fits-all solution; adopt only what can be enforced!
- More complicated regulations have pitfalls
- Avoid providing preferred status to owner-occupants, residents of neighborhood

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Resources

Regulating Short-Term Rentals: A guidebook for equitable policy, Sustainable Economies Law Center, 2016

https://www.theselc.org/regulating_short_term_rentals_a_guidebook_for_equitable_policy

Understanding Short-Term Rentals: The Challenges and Possibilities of STRs in Our Communities, Plan on it Newsletter, Dutchess Co.

<https://www.dutchessny.gov/Departments/Planning/Docs/SeptOct2019eNewsletter-ShortTermRentals-printerfriendly.pdf>

Short-Term Rental Study, New Orleans City Planning Commission, 2018

https://www.nola.gov/nola/media/City-Planning/Preliminary-STR-Study-9-18-18_1.pdf

A practical guide to effectively regulating short-term rentals, Host Compliance <https://hostcompliance.com/>

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New York Department of State

Division of Local Government Services

(518) 473-3355

localgov@dos.ny.gov

<https://dos.ny.gov/training-assistance>

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A local law amending Chapters 300 (Zoning), 227 (Signs), and 250 (Taxation) of the Code of the Village of Cooperstown to revise the requirements and procedures concerning transient rentals.

Section 1. Purpose

The Village of Cooperstown's Comprehensive Plan, adopted in 2016 after months of public meetings and extensive public participation, includes an objective of facilitating a mix of year-round housing types in a variety of price ranges, including rental options, to meet the needs of all Village residents for safe, welcoming, pedestrian-oriented and family-friendly neighborhoods.

The purpose of this law is to provide for transient rentals in the Village's Residential, Business and Commercial Districts consistent with that objective.

Since 1989, the Village has had Tourist Accommodations laws that include criteria such as owner-occupancy, to ensure that residential uses have priority over business uses in residential zones. Amendments to the original Tourist Accommodation law were enacted to strengthen residential integrity while recognizing the need for tourist accommodations in the Village.

This local law is intended to foster long-term housing options. It codifies criteria to ensure that new Short-term Rentals remain incidental to long-term housing in residential areas, creates a procedure to phase out existing Transient Rentals that do not comply with new requirements, and establishes requirements for special use permits and annual registrations to operate a Transient Rental.

Section 2. Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended by deleting §§ 300-66 (E) (6) and 300-66 (E) (7).

Section 3. § 300-10 (B) (9) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows:

Short-term Rental. (Special use permits considered by the Board of Appeals.)

Section 4. § 300-11 (B) (5) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows:

Short-term Rental. (Special use permits considered by the Board of Appeals.)

Section 5. § 300-14 (B) (5) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows:

Short-term Rental. (Special use permits considered by the Board of Appeals.)

Section 6. § 300-15 (B) (12) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows:

Short-term Rental. (Special use permits considered by the Board of Appeals.)

Section 7. § 300-17 (A) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows.

Short-Term Rentals: See Section 300-17.1 for all requirements regarding Transient Rentals.

Section 8. § 300-17 of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended by:

- A. Deleting § 300-17 (D); and
- B. Re-designating § 300-17 (E), (F), (G), (H) and (I) as § 300-17 (D), (E), (F), (G) and (H), respectively.

Section 9. Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended by adding § 300-17.1, to follow § 300-17, as follows.

§ 300-17.1 Transient Rentals.

- A. Existing Tourist Accommodation Special Use Permits and Pre-existing nonconforming Transient Rentals. Owner-occupied and Owner-operated Tourist Accommodations currently operating with a valid special use permit, and preexisting nonconforming Transient Rentals may continue to operate, subject to the provisions of § 300-17.1 (D) and (E).
- B. New Short-term Rentals. The Board of Appeals may grant a special use permit for a Short-term Rental to an Owner subject to the provisions of §§ 300-16, 300-66 (E) and 300-17.1 (A) (1) through (9):

(1) Location:

(a) Residential Zoning Districts: Short-term Rentals shall only be permitted in Single-family dwellings or accessory apartments attached thereto in residential zoning districts.

(b) Business and Commercial Zoning Districts: Short-term Rentals shall be permitted in any building type in business and commercial zoning districts.

(2) Operator: All Short-term Rentals shall have an Operator.

(a) Residential Zoning Districts: The Operator shall be the Owner or an individual with a minimum of 50 percent ownership interest in the entity Owner.

(b) Business and Commercial Zoning Districts: The Operator shall be the Owner or the Owner's agent.

(3) Operator Duties: The Operator shall:

(a) Be a long-term Occupant of the property.

(b) Be present on the property at regular times during each day and overnight whenever guest space is rented.

(c) Ensure safety and monitor noise and activities that create a public or private nuisance.

(4) **Occupancy:** The maximum occupancy of any parcel in a Residential District shall be 10 people, and the building, as demonstrated on a floor plan submitted with the application, shall provide for the Operator a minimum of 1 bedroom for every two family members in residence.

(5) **Incidental Use:** Short-term Rentals shall be incidental to Residential use in Residential Districts.

(6) **Parking:** Required off-street parking shall be:

(a) In accordance with Article VII of this Chapter.

(b) Located in a manner that minimizes impacts to neighboring properties and streets including light, noise, snow removal, green space, street view.

(c) Available for parking whenever the Short-term Rental is in operation.

(7) **Access and maneuvering:** In addition to the applicable standards in Article VII of this Chapter, the following regulations shall also apply:

(a) The parcel/site shall safely accommodate the additional activity and parking.

(b) Driveways that are already in existence may be used for ingress and egress, provided they are at least 10 feet in width.

(c) Shared driveways shall not be used in the circulation plan without written acquiescence from all involved parties at the time of the application. If used, a shared driveway shall be at least 10 feet in width and remain accessible to all parties for the period of Short-term Rental use.

(d) The addition of a new driveway, or an expansion of an existing driveway, may be approved only if such is necessary and can provide for the safety of users and adjoining property owners.

(e) Parking and access lanes shall always be convenient to safely access and maneuver.

(8) **Site lighting:**

- (a) Property owners shall not permit on-site lighting to be directed toward adjacent properties or streets.
- (b) All but necessary security lighting shall be extinguished after 11:00 p.m.
- (9) Other Laws: Short-term Rentals shall comply with all other requirements of the laws (Village, county or state) governing the operation of a tourist accommodation or residential rental property.

C. Applications and term for new Short-Term Rental Special Use Permit.

- (1) Application. An application for a special use permit for a Short-term Rental shall consist of:
 - (a) A complete application for a zoning permit.
 - (b) A list of all owners. Where the Owner is not an individual person, the names and ownership percentages of all individual persons with an ownership interest in the Owner shall be provided.
 - (c) A floor plan identifying the location of all sleeping rooms.
 - (d) A parking, circulation, and lighting plan.
- (2) Special Use Permit. A Short-Term Rental special use permit shall be issued for a period of the current calendar year and two additional calendar years after which the special use permit shall expire.
- (3) Initial Registration. Short-Term Rental registrations shall be issued by the Zoning Enforcement Officer ("ZEO") following the Board of Appeals granting of a Short-term Rental special use permit, the issuance of a fire safety inspection certificate from Otsego County Codes Office, and a favorable site inspection by the ZEO, which shall constitute the annual registration for the first year of operation (until the end of the current calendar year).
- (4) Subsequent Registrations. The two additional calendar years of the special use permit shall be subject to the registration requirements below.

D. Registration for Transient Rentals. The Village maintains a master registration list of all approved Transient Rentals, including those with special use permits for Short-term Rentals and Tourist Accommodations and all pre-existing nonconforming Transient Rentals.

- (1) All Transient Rentals are subject to annual registration in accordance with the following provisions:

- (a) An application for annual registration shall be made by the first business day of December for every following year.
 - (b) The application shall include a list of emergency contacts, current ownership information, name of owner-operator or owner's agent, and a fire safety inspection certificate dated within the past 12 months for the property from the Otsego County Codes Office.
 - (c) Proof of compliance with the Otsego County bed tax requirements for the previous year shall be verified by the ZEO before the annual registration application is considered complete.
 - (d) Annual registrations shall be issued by the ZEO only upon inspection and verification of conditions by the ZEO that show the property is operating in accordance with this chapter and the original application and approval, and/or is operating in accordance with its preexisting nonconforming use.
 - (e) Annual registrations shall be valid for one calendar year, January 1 to December 31.
 - (f) A registration fee shall be in accordance with the Village Fee Schedule.
- (2) Termination by Board of Appeals: Any Transient Rental considered by the ZEO to be in violation of the original application and approval and/or not operating in accordance with its current preexisting nonconforming use, as well as any property where there has been a signed complaint to the ZEO and the ZEO determines the Transient Rental has had an adverse effect on the quality of life of the surrounding neighborhood shall require review by the Board of Appeals. Following a public hearing, the Board of Appeals shall authorize approval or denial of the reissuance of the annual registration or may prescribe approval with restrictions to the operation of the Transient Rental to provide additional safeguards for the neighborhood and the public.

E. Termination of Transient Rental Use

- (1) A special use permit for a Short-term Rental or Tourist Accommodation shall become invalid, or the pre-existing nonconforming Transient Rental status of a short term residential unit(s) shall be terminated, in the event of the following:
 - (a) Failure to apply for annual registration.
 - (b) Failure to meet any of the annual registration application requirements.
 - (c) Denial by the Board of Appeals of the reissuance of the annual registration.

(d) Expiration of the special use permit for a Short-term Rental or Tourist Accommodation.

(e) Sale or transfer of more than 50 percent ownership of the parcel, cumulative from the effective date of this local law.

(2) Following invalidation, expiration or termination, all new applications for a Transient Rental on the parcel shall be subject to the then current requirements for a new special use permit for a Short-term Rental.

F. Long-term occupancy.

(1) Any Transient Rental may be used for long-term occupancy without obtaining an additional special use permit from the Village.

(2) Where long-term occupancy is provided in lieu of transient rental the Owner shall remain current with the annual registration. Failure to remain current will result in the termination of the Transient Rental permit or loss of the nonconforming status.

G. Exception: Owners may rent their house to visitors during Hall of Fame Induction Weekend without an application for a special use permit or payment of a registration fee to the Village. The total household occupancy shall not exceed 10 individuals. The total rental period for the weekend shall be less than 60 hours.

Section 10. Subsections (A), (B), and (C) of § 300-33 of Chapter 300 (Zoning) of the Code of the Village of Cooperstown are amended as follows.

A. One space per unit for residential dwelling units with one bedroom or fewer in a Residential District and for each dwelling unit in a Business or Commercial District.

B. Two spaces per unit for residential dwelling units with two bedrooms or more in a Residential District.

C. One space per each guest sleeping room for Transient Rentals, Motels, and Hotels.

Section 11. § 300-33 (L) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows.

In the Business District, the minimum requirement for off-street parking for all Short-term Rentals, Tourist Accommodations, Motels and Hotels shall be met. For all other permitted, special use permitted and nonconforming uses in the Business District, where the Zoning Enforcement Officer determines it is not possible to provide the number of off-street parking spaces called for by this Chapter, those parking requirements that cannot be met shall be waived. In cases where proposed expansion or new construction would eliminate existing required parking, the board charged with reviewing the parking plan shall review the project and may establish a lower

minimum parking requirement if doing so furthers the policies for land use as presented in Article I (§ 300-2).

Section 12. § 300-34 (C) (1) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows.

In cases of Short-term Rentals and Home Occupations requiring a special use permit, the Board of Appeals shall review and approve the parking plan prior to issuing a special use permit.

Section 13. § 300-35 (C) (2) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows.

Use. Off-site parking may be considered for all permitted or special permitted uses, except on parcels with Transient Rentals located within a residential district.

Section 14. § 300-49 (B) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows.

It is the intent of this chapter to permit such nonconforming or noncomplying uses to continue until they are removed or discontinued, since they are felt to be incompatible with the permitted uses in the districts involved. In some special cases, approved by the Board of Appeals, they may be changed to another nonconforming use or to a use determined to be more conforming than the existing use. However, existing nonconforming Transient Rental units shall be subject to the regulations under Section § 300-17.1 for annual registration and conditions of termination.

Section 15. § 300-66 (E) (1) of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended as follows.

In addition to such powers as may be conferred on it by statute, the Board of Appeals shall have the power, on application and after public notice and hearing, to issue special use permits for any of the uses so specified in §§ 300-10 through 300-15. In issuing such special use permits, the Board shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, as well as the conditions and standards set forth in §§ 300-16 and 300-17.1 and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this Chapter. On an application for a special use permit, an application may be made to the Board of Appeals for an area variance without the necessity of a decision or determination by the Zoning Enforcement Officer.

Section 16. § 300-84 of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended by adding the following definitions:

INCIDENTAL. Subordinate in terms of square footage, intensity of use, and/or purpose.

LONG-TERM OCCUPANCY/OCCUPANT. Occupancy of a structure for 30 consecutive days or more.

SHORT-TERM RENTAL. A special permitted use for overnight accommodations provided for or offered to one or more transient guests in exchange for compensation. Meals may be served to overnight guests but not to the public. Motels and Hotels are excluded from this definition.

TRANSIENT RENTAL. Any rental for transient guests including Short-Term Rentals, Existing Tourist Accommodations and Pre-Existing Nonconforming Short-term Rental Units. Motels and Hotels are excluded from this definition.

MULTIPLE RESIDENCE PROPERTY. A parcel that includes more than one detached single-family dwelling.

Section 17. § 300-84 of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended by revising the following definitions as follows.

ACCESSORY APARTMENT UNIT. A housekeeping facility provided with bathroom, cooking and living facilities accessory to and separate from the housekeeping facilities of the main single-family dwelling. Accessory apartment units may be located in a building accessory to the main single-family dwelling (detached) or within the same building as the single-family dwelling (attached).

DWELLING, SINGLE FAMILY. A building with the provisions of one dwelling for one family on a parcel with no additional dwelling units or business uses other than accessory apartments, Home Occupations, Tourist Accommodations, or Short-term Rentals.

DWELLING, TWO FAMILY. A building or buildings with the provisions of two dwellings, which are comparable in use and size, for two families on a single parcel with no additional dwelling units or business uses other than Home Occupations.

DWELLING, MULTIPLE FAMILY. A building or buildings with the provisions for three or more dwellings for three or more families on a single parcel with no business uses other than Home Occupations.

GUEST SLEEPING ROOM. A partitioned part of the interior of a Hotel, Motel, or Transient Rental which contains a bed or beds, is maintained primarily for sleeping purposes, and is let out by its owner or, in the case of a Hotel or Motel, any agent of its owner at any time to transient guests for compensation.

HOME OCCUPATION. An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit by a member of the family residing in the dwelling unit and is clearly incidental and secondary to the use of the dwelling unit for residential purposes. Home Occupations include but are not limited to art studios, barbershops, beauty parlors, dressmaker shops and professional offices of physicians, dentists, lawyers, engineers, architects, accountants, real estate agents, educational classes or tutoring,

catering, and internet sales. However, commercial stables and kennels, restaurants, funeral homes and mortuaries and Transient Rentals are not considered Home Occupations.

HOTEL. A nonresidential building, group of buildings, or portion of a building, which provides accommodations for transient guests, and may provide a variety of accessory uses. Hotels shall include a minimum of 5 guest sleeping rooms and an owner of the building or an agent thereof in attendance on the premises whenever one or more of said rooms are occupied by guests.

MIXED OCCUPANCY. Use of a structure for one or more dwellings and one or more business or commercial uses.

MOTEL. Same as Hotel.

OWNER. The person that appears on the deed recorded in the office of the Otsego County Clerk.

TOURIST ACCOMMODATION: A Special Permitted Use granted prior to 2018 permitting a building within which overnight accommodations are provided for or offered to transient guests in exchange for compensation. Meals may be served to transient guests but not to the public. Motels and Hotels are excluded from this definition.

Section 18. § 300-84 of Chapter 300 (Zoning) of the Code of the Village of Cooperstown is amended by deleting the following definitions:

LONG-TERM OCCUPANCY

OWNER-OCCUPIED

OWNER-OPERATED

Section 19. Local Law 4 of 2015 is repealed.

Section 20. § 227-3 (A) (2) (d) of Chapter 227 (Signs) of the Code of the Village of Cooperstown is amended as follows.

Business identity sign. Rear or side exits/entrances other than for customer use, including delivery doors, apartment doors and Transient Rental entrances, located on sides adjacent to the front facade or on the rear facade, or both, may be identified by a business identity sign, subject to the following:

[1] Maximum area: two square feet per sign, per entrance.

[2] Signs shall provide the name of the business and the 911 street address.

[3] Advertising is not permitted.

Section 21. § 227-3 (B) (1) (c) of Chapter 227 (Signs) of the Code of the Village of Cooperstown is amended as follows.

Uses other than those listed in Subsection (B) (1) (a) and (b) above, e.g., Transient Rentals and accessory apartments, shall be allowed one sign, not to exceed six square feet.

Section 22. § 227-3 (C) (Table 1: Signs allowed with a permit, a summary of § 227-3A and B) of Chapter 227 (Signs) of the Code of the Village of Cooperstown is amended by replacing "tourist accommodation" with "Transient Rental".

Section 23. § 250-29 of Chapter 250 (Taxation) of the Code of the Village of Cooperstown is amended by revising the following definitions as follows.

COMMERCIAL PURPOSE OR USE

The buying, selling or otherwise providing of goods or services, including hotel/motel services, or other lawful business or commercial activities permitted in mixed-use property. For the purposes of this article, Tourist Accommodations and Short-term Rentals are not considered a commercial purpose or use.

RESIDENTIAL CONSTRUCTION WORK

The creation, modernization, rehabilitation, expansion or other improvement of dwelling units, other than guest sleeping rooms in a Hotel, Tourist Accommodation, Short-term Rental, or Transient Rental, in the portion of mixed-use property to be used for residential purposes.

Section 24. This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

LOCAL LAW NO. ____ OF 2020

**A LOCAL LAW REGULATING SHORT-TERM RENTALS
IN THE TOWN OF QUEENSBURY**

BE IT ENACTED BY THE QUEENSBURY TOWN BOARD AS FOLLOWS:

The Queensbury Town Code is hereby amended by adding the following new Chapter 115 entitled, “Short-Term Rentals.”

ARTICLE 1. PURPOSE AND INTENT; AUTHORITY.

The Town Board has determined that short-term, transient rentals can be incompatible with the sense of privacy, community and ambience currently enjoyed in residential neighborhoods in the Town and have the potential to create a threat to the public health, safety and well-being within the Town. The Board also recognizes that Short-Term Rentals can attract visitors to the Town and can provide an additional source of income to Town residents. Accordingly, the Board wishes to provide regulations to protect against adverse effects of this use while allowing it under appropriate circumstances. This Local Law is adopted pursuant to New York Municipal Home Rule Law.

ARTICLE 2. DEFINITIONS.

As used in this Chapter, the following words shall have the meanings indicated:

DWELLING UNIT – One or more rooms designed, occupied or intended for occupancy as separate living quarters, with provision for living, cooking, sanitary and sleeping facilities provided for the exclusive use of one family or household.

RENTAL –Granting use or possession of a Dwelling Unit in whole or part to a person or group in exchange for some form of valuable consideration.

SHORT-TERM RENTAL – A Dwelling Unit, which may or may not be inhabited by the owner of record or their immediate family, that is rented, in whole or in part, for a period of less than thirty (30) consecutive days to any person or entity, but not including a Hotel, Motel, Inn, Campground, Bed and Breakfast as defined in Town Code Chapter 179.

SHORT-TERM RENTAL OWNER – All entities having an ownership interest in a Dwelling Unit which is used as a Short-Term Rental.

SHORT-TERM RENTAL PROPERTY – The entire area which is under the ownership or control of the Short-Term Rental Owner including, as applicable, the parcel of land on which a Short-Term Rental is located together with the dwelling in which it is located and any other structures on the parcel.

ARTICLE 3. SHORT-TERM RENTAL STANDARDS.

Short-Term Rentals shall comply with the following standards and requirements:

- A. There shall be one functioning smoke detector in each sleeping room, one functioning smoke detector and a carbon monoxide detector in another centrally-located room and one functioning and inspected fire extinguisher in the kitchen. Detectors must be in compliance with NYS Property Maintenance Code.
- B. All exterior doors shall be operational and passageways to such doors shall be freely accessible and unobstructed.
- C. Electrical systems shall be serviceable with no visible defects or unsafe conditions.
- D. All fireplaces, fireplace inserts or other fuel-burning heaters and furnaces shall be vented and properly installed. If installed, all fireplace, fireplace inserts or other types of fuel burning heaters (excluding furnaces) shall have proper written safe operating instructions provided to any party renting the Short-Term Rental.

- E. Each sleeping room shall have an exterior exit that opens directly to the outside or an emergency escape or rescue window which meets the current State and Town Building Codes requirements for an escape window.
- F. The number of vehicles permitted overnight at the Short-Term Rental Property is limited to 1.5 vehicles per bedroom (rounded to the next whole number). The number of bedrooms set forth in the Town of Queensbury's assessment records shall be used for purposes of this section. Overnight on-street parking is not allowed. Available parking spaces (one space per car) shall limit parking to such number of spaces. On-street day parking shall not impede local residents or public free entrance and exit to the neighborhood.
- G. Short-Term Rental Owners shall establish written rules and regulations for the Short-Term Rental. The rules and regulations are expected to be activated when rentals are active. The content and intent of these rules and regulations is to assure public health, safety and general welfare by promoting a clean, wholesome and attractive environment for the owner's property, adjacent property owners and the neighborhood. This document shall also list the penalties for violation of such rules or regulations. The rules will specifically address the penalties contained in this local law – see Article 5. The renter must sign acknowledgment of these rules and regulations. A copy of the signed acknowledgement statement shall be maintained on the property and made immediately available upon request from law enforcement officers or Town Buildings and Codes personnel. The rules and regulations shall be enforced by the Short-Term Rental Owner. As a minimum, the rules and regulations shall address prohibition of the following behaviors: fighting, violence, tumultuous or threatening behavior, unreasonable noise, abusive or obscene language or gestures in public. Quiet hours for the purpose of this Law shall mean between the hours of 10:00 PM and 8:00 AM and shall be maintained by all rental occupants and visitors at the rental property.
- H. Provisions shall be made by the Short-Term Rental Owner prior to actual rental for weekly garbage removal during rental periods. Garbage containers shall be

secured with tight fitting covers at all times to prevent leakage, spillage and odors, and be placed where they are not clearly visible from the street or road except as required for pick-up times.

- I. A house number visible from the street or road shall be maintained.
- J. Short-Term Rentals shall comply with all Local, State and Federal Laws and Regulations.
- K. The maximum occupancy for each Short-Term Rental shall be two (2) people per bedroom plus two (2). For example, a Short-Term Rental with three (3) bedrooms is allowed eight (8) occupants. The number of bedrooms is determined by the RPS database maintained by the Town Assessor's Office.

ARTICLE 4. CONTACT PERSON.

The Short-Term Rental Owner must provide all owners of property adjacent to the Short-Term Rental with the name, address and telephone number of a contact person or entity. Such contact person or entity must be able to address any complaint received regarding the Short-Term Rental site within one (1) hour of receiving the complaint. The contact person or entity must document all complaints and responses and submit them to the Town within 24 hours. A copy of the contact person or entity name, address and phone number shall be maintained on the property and made immediately available upon request from law enforcement officers or Town Buildings and Codes personnel.

ARTICLE 5. ENFORCEMENT AND PENALTIES.

Any individual, partnership, corporation or other firm owning, operating, occupying or maintaining Short-Term Rental Property or a Short-Term Rental shall comply with all the provisions of this Chapter and all orders, notices, rules, regulations or determinations issued in connection therewith.

- A. The Director of Building & Codes Enforcement or designee shall be granted access upon reasonable request to the Short-Term Rental Property for the purpose

of inspection and/or enforcement of compliance with Short-Term Rental regulations and/or Town and State Building Codes.

- B. Whenever it is found that there has been a violation of this Chapter or any rule or regulation adopted pursuant to this Chapter, a violation notice and/or appearance ticket or summons and complaint may be issued to the person, individual, partnership or corporation owning, operating or maintaining the Short-Term Rental or Short-Term Rental Property in which such violation has been noted.
- C. The Director of Building & Codes Enforcement or designee shall have the authority, pursuant to the Criminal Procedure Law, to issue an appearance ticket or summons and complaint, subscribed by him or her, directing a designated person to appear in court at a designated time in connection with the commission of a violation of this Chapter.
- D. Penalties. Any person who shall violate any provision of this Chapter, any order made hereunder, or any rules or regulations adopted pursuant to this Chapter in addition to other penalties provided for in this Chapter shall be guilty of an offense punishable in the following manner: A fine of not more than \$950 for each offense.
- E. A civil action or proceeding in the name of the Town of Queensbury, New York, may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Chapter or any rule or regulation adopted pursuant to hereto. Such remedy shall be in addition to penalties otherwise prescribed by law and may be commenced with the consent of a majority of the Town Board.
- F. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this Chapter shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Chapter, or in any other applicable law. Any remedy or penalty specified in this

Chapter may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Chapter. The Town may initiate enforcement proceedings under this Chapter at any time following receipt of a complaint or if the Director of Building and Codes determines that a violation has occurred.

ARTICLE 6. SEVERABILITY.

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 7. EFFECTIVE DATE.

This Local Law shall take effect upon filing by the office of the New York State Secretary of State or as otherwise provided by law.

