

**TOWN OF CORNWALL  
LOCAL LAW NO. \_\_ OF THE YEAR 2019**

A local law to enact a new Town Code Chapter 120 entitled "Short Term Rentals".

Be it enacted by the Town Board of the Town of Cornwall as follows:

Section 1. Purpose:

The purpose of this Local Law is to promote the public health, safety and welfare by enacting a new Chapter 120 to the Town Code entitled "Short Term Rentals".

Section 2. Municipal Home Rule Law.

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York and Article 16 of the Town Law of the State of New York. To the extent the provisions of this local law are in conflict with Town Law, the Town Board hereby asserts its intention to supersede Town Law pursuant to the Municipal Home Rule Law. Further, this Local Law is adopted in conformance with the Town's Comprehensive Plan.

Section 3. Amendment of Code:

The Town of Cornwall Town Code is hereby amended to enact a new Chapter 120 entitled "Short Term Rentals" as follows:

**§ 120-1 Purpose.**

Registration and Licensing of short term rentals of residential property is necessary to protect public health, preserve the character of residential neighborhoods, and to regulate and minimize the impacts of the increased traffic, noise, trash, and similar impacts which are sometimes attendant on short term rentals.

**§ 120-2 Definitions.**

The term "party or event" as used in this Chapter shall mean inviting in or otherwise hosting six (6) or more non-occupants at short term rental property, by, on behalf of, or for the benefit of, a short term rental tenant, for purposes of celebrating or commemorating a particular person, occurrence or occasion or otherwise for socialization.

The term "short term rental" as used in this Chapter shall mean offering any residential dwelling, or space therein, to persons in exchange for a fee or compensation, whether monetary or otherwise, for a period of less than thirty (30) days, including, but not limited to, rentals provided by such companies as Air BnB and VBRO. Month to month tenancies are not considered short term rental properties.

The term "short term rental permit" as used in this Chapter shall mean a permit granted by the Town Building Department for use of property for short term rentals.

The term "short term rental property" as used in this Chapter shall mean any real property which is offered and/or rented for short term rental.

The term "owner-occupied property" as used in this Chapter shall mean property which the record owner maintains as his or her domicile.

**§ 120-3 Regulation Of Short Term Rental Property.**

- (A.) Only single-family dwellings may be used as short term rental property. Short term rental of two- or three-family dwellings or multiple dwellings is not permitted.
- (B.) Only owner-occupied property may be used for short term rentals.
- (C.) All short term rental property must be registered with the Town Building Department.
- (D.) A short term rental permit and a grant of site plan approval from the Planning Board is required for short term rental of any property that is being offered or used as a venue for parties and events as defined in this Chapter.
- (E.) A short term rental permit shall be required for short term rental of more than one bedroom or of an entire dwelling for more than fourteen (14) days per calendar year. Unless the property is being offered as a venue for parties and events, a short term rental permit shall not be required for short term rental of more than one bedroom or of an entire dwelling for fourteen (14) days or less per calendar year.
- (F.) Unless the property is being offered as a venue for parties and events, a short term rental permit is not required for short term rental of only one bedroom regardless of the number of days the room is rented.
- (G.) The following terms and conditions shall apply to all short term rentals:
  - (1) No more than three (3) adult persons can occupy any one bedroom, provided, however, that maximum occupancy under the State Building and Fire Safety Code cannot be exceeded.
  - (2) No illegal conduct shall be carried on at the short term rental property by the property owner, any short term rental tenants, guests or invitees.
  - (3) The short term rental tenants and their guests or invitees shall not block or otherwise impede ingress or egress over the street on which the short term rental property is located and/or to or from any driveways of other property on the said street.

- (4) Trash, refuse and recycling, and the bins or containers therefore, shall not be left stored within the public view, except that covered bins or containers may be left curb side for the purpose of scheduled collection. No container shall be left on or near the curb or the edge of the street for collection for more than twenty-four (24) hours.
- (5) No exterior lighting of the dwelling shall be permitted from midnight to six o'clock a.m., except for such lighting of driveways or walkways as may be necessary for security and for safe ingress and egress of persons entering or exiting the short term rental property,
- (6) The short term rental tenants and their guests or invitees shall not engage in any conduct which violates the Town's noise ordinance or which would otherwise constitute disorderly conduct or creation of a public nuisance.

**§ 120-4 Registration Of Short Term Rental Property.**

(A.) It shall be a violation of this Chapter to offer or engage in short term rentals unless the short term rental property has been registered with the Town Building Department as provided in this Section within sixty (60) days of the effective date of this Chapter.

(B.) The registration of short term rental property shall be accomplished by submitting for approval a completed registration application on a form promulgated by the Town Building Department in accordance with the provisions of this Section. Such form shall contain a minimum the following information:

- (1) The name, address, telephone number and e-mail address of the record owner of the short term rental property;
- (2) The street address and Tax Map Number of the short term rental property;
- (3) The number of bedrooms in short term rental property;
- (4) The number of rooms in the short term rental property that will be offered for short term rentals;
- (5) A notarized statement that the short term rental property is owner occupied.

(C.) The Building Inspector may deny an application for registration of short term rental property if the application is incomplete or contains erroneous information or otherwise fails to meet the criteria for short term rentals.

(D.) In the event that the Building Inspector denies an application to register short term rental property, the property owner may appeal the denial to the Town Board within thirty (30) days of issuance of notice of the denial to the property owner.

(E.) Registration for short term rentals shall remain in effect as long as there is no change in the record owner of the short term rental property. Upon a change in ownership, the new owners of the short term rental property shall be required to once again register it before offering it for short term rentals.

**§ 120-5 Short Term Rental Permits.**

(A.) An application for a short term rental permit may be made at any time during the calendar year for which it is sought and within ninety (90) days prior to the first day of the calendar year for which it is sought.

(B.) Applications for a short term rental property permits may be made simultaneously with applications to register short term rental property on a form promulgated by the Town Building Department. The permit application form shall, at a minimum, include:

- (1) A statement of whether the entire dwelling or only individual rooms within the dwelling are being offered for short term rentals; or if both are being offered.
- (2) The proposed maximum overnight and daytime occupancy limits for the property;
- (3) A floor plan indicating the placement and size of each bedroom, exit and fire-protection system;
- (4) A statement of the off-street parking provided on the short term rental property demonstrating that sufficient parking exists for at least one vehicle per short term rental.
- (5) Proof that there are no open zoning or building code violations on the short term rental property, such as report letter from the Town Building Department.

(C.) Upon submission of an application for a short term rental permit, the property owner shall contact the Building Inspector to schedule an inspection of the short term rental property.

(D.) Upon payment by the property owner of such inspection and permit fees as the Town Board shall prescribe in the Town's schedule of fees, the Building Inspector shall conduct an inspection of the short term rental property to determine whether it complies with the Town Code and all applicable State Codes and to verify that the occupancy limits and available off-street parking.

(E.) Upon completion of an inspection of the short term rental property and ascertaining that the property meets the Town Code's requirements, the Building Inspector shall issue a short term rental permit.

(F.) The Building Inspector may deny an application for short term rental permit if the application is incomplete or the property otherwise fails to meet the criteria for grant of a short term rental permit.

(G.) In the event that the Building Inspector denies an application for a short term rental permit, the property owner may appeal the denial to the Town Board within thirty (30) days of issuance of notice of the denial to the property owner.

(H.) Short term rental permits shall have a term of no more than two (2) years and shall expire on December 31st of the calendar year following the year in which they were issued.

(I.) Short term rental permits may not be transferred or assigned to any person or used by anyone other person to whom it was issued.

(J.) In the event that there is any change in the information provided by a property owner in his application for a short term rental permit, he or she shall advise the Town Building Department in writing of such change on later than forty-eight (48) hours after such occurrence. Failure to timely advise the Town Building Department of a change in the information provided by the property owner in his application shall constitute a violation of this Chapter.

(K.) If the Building Inspector determines that a property owner has falsified or otherwise failed to provide accurate information on his registration or permit application, he shall refer the matter to the Town Board as a violation of this Chapter for further proceedings under this Chapter.

#### **§ 120-6 Suspension or Revocation of Short Term Rental Rights.**

(A.) It is the responsibility of the property owner to comply with all terms and provisions of this Chapter and to ensure that his short term rental tenants, guests and invitees comply with this Chapter and the terms and conditions of the short term rental permit. Any failure of short term rental tenants, guests and invitees to comply with this Chapter and the terms and conditions of a short term rental permit shall be attributed to the failure of the property owner to discharge his or her responsibility to ensure such compliance.

(B.) Upon receipt of a complaint or upon his own initiative, the Building Inspector may investigate any property for failure to comply with the terms of this Chapter.

(C.) If, upon investigation, the Building Inspector determines that a violation of this Chapter and/or of the terms and conditions of a short term rental permit has occurred on short term rental property, he shall issue a written notice of the violation to the property owner and shall provide a copy of the same to the Town Board.

(D.) Upon receipt of such notice, the Town Board shall set a date at which the property owner shall be heard in regard to the Building Inspector's findings of a violation. Notice of such hearing date shall be mailed to the property owner by certified mail return receipt requested at the address(es) provided in the application for the short term rental application.

(E.) If, after affording such an opportunity to be heard, the Town Board confirms the existence of the violation of this Chapter, the Town Board shall act as follows:

- (1) For a first violation, the Town Board may, in its discretion, merely issue a warning to the property owner or may suspend the right to conduct short term rentals at the subject property for a period of up to six (6) months from the date of the Town Board's determination, depending on the circumstances, severity and nature of the violation, taking into consideration whether the violation was committed knowingly or intentionally and/or presented a risk to public safety.
- (2) For an additional violation within one year of a prior violation, the Town Board shall suspend the right to conduct short term rentals at the subject property for a period of six (6) months.
- (3) For more than two violations within a 24 month period of the first violation the Town Board shall suspend the right to conduct short term rentals at the subject property for a period of one (1) year.
- (4) Provided, however, that if the Town Board finds that any violations of this Chapter also involved violation of any provision of the Penal Code of the State of New York, then the Town Board may, in its discretion, revoke the right to conduct short term rentals at the subject property for up to two (2) years and, further, if multiple violations of the Penal Code occur may, in its discretion, bar the property owner from short term rentals of the subject property for a period of up to three (3) years.

**§ 120-7 Fees for registration and issuance of permits.**

The Town Board shall set such application and permit fees as it may find appropriate for short term rentals by resolution and such fees shall be listed in the Town's Schedule of Fees

**§ 120-8 Penalties for offenses.**

(A.) It shall be a violation of this Chapter to offer or use property for short term rental unless it has been registered with the Town Building Department and, where required by this Chapter, a short term rental permit has been obtained from the Town Building Department and site plan approval has been granted by the Planning Board.

(B.) In addition suspension or revocation of the right to conduct short term rentals as provided in this Chapter, any person, whether property owner or tenant, who violates any provision of this Chapter shall be guilty of an offense. Each day that the violation continues shall be deemed a separate violation.

(C.) Conviction of violation of the provisions of this Chapter shall be punished by a fine of not more than \$250 per violation or by imprisonment for not more than fifteen (15) days, or both.

(D.) The penalties for violation of this Chapter shall be in addition to any penalties imposed for violation of other provisions of the Town Code and the New York State Uniform Fire Prevention and Building Code, the State Energy Conservation Construction Code.

(E.) The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceeding to prevent unlawful short term rental of property in violation of this Chapter, including, without limitation, civil actions for injunctive relief to immediately terminate any existing short term rental occupancy of buildings, land or premises.

(F.) Any person who violates of the terms of this Chapter shall subject to a civil penalty of \$250 per day for each day that the violation continues. Further, in the event that the Town successfully pursues civil proceedings to abate a violation of this Chapter, the person or persons against whom the Town recovers a judgment shall be liable for the reasonable attorney's fees incurred by the Town in the litigation.

#### Section 4. Severability:

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances, and the Town Board of the Town of Cornwall hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

#### Section 5. Effective Date:

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board.