

13 November 2019

Local Law No. __ of 2019, entitled:

“Short-Term Rentals”

BE IT ENACTED BY, the Town Board of the Town of Clinton as follows:

1. Section 105 of Chapter 250 of the Town of Clinton Town Code (“Town Code”) is hereby amended by deleting the definition of “Bed and Breakfast Establishment” contained therein.

2. Section 105 of Chapter 250 of the Town Code is hereby amended by adding the following new definitions:

Bed and Breakfast Establishment – An owner-occupied Dwelling in which more than one bedroom is rented for transient occupancy and meals are provided for such occupants. A public restaurant or public bar shall not be included.

Lodger – Any person who occupies a Dwelling or Accessory Dwelling Unit or any part thereof while it is being utilized as a Short-Term Rental in exchange for consideration, monetary or otherwise.

Short-Term Rental – Any Dwelling or Accessory Dwelling Unit, or part thereof, which is rented in exchange for consideration, monetary or otherwise, by the owner(s) in exchange for temporary occupancy for a period of 30 consecutive nights or less, and is not regulated by any other provision of the Town Code. See § 250-105 regarding the definitions of Bed and Breakfast Establishments, Hotels, Motels, Camps and Campgrounds.

Type-1 Short-Term Rental – A Short-Term Rental that is occupied by the owner during the period which it is rented, with no more than one bedroom available for Lodger(s) use.

Type-2 Short-Term Rental – A Short-Term Rental exclusively occupied by Lodger(s), with all or part of the Dwelling or Accessory Dwelling Unit available to Lodger(s).

Short-Term Rental Certificate – A document issued by the Zoning Administrator which permits the use of a Dwelling or Accessory Dwelling Unit as a Type-1 Short Term Rental pursuant to the terms and conditions set forth therein.

Short-Term Rental Facilitator - An entity which the owner of a Dwelling Unit or Accessory Dwelling Unit utilizes for the advertisement and reservation of their Dwelling or Accessory Dwelling Unit as a Short-Term Rental. Such entities shall include but not be limited to AirBNB and VRBO.

3. Chapter 250 of the Town Code is hereby amended by adding a new Section 250-69.1, which shall read as follows:

§250-69.1 Short-Term Rentals

A. Purpose and Objectives. It is the intent of this section to recognize the desire of some property owners to rent their Dwelling or Accessory Dwelling Unit, or part thereof, on a short-term basis and establish appropriate regulations for the use of Short-Term Rentals in order to protect the public health, safety, and general welfare of the people of the Town and to further achieve the following beneficial purposes:

- (1)** Preserving of the residential character of the Town;
- (2)** Ensuring the safety, general welfare and health of persons occupying Short-Term Rentals and neighboring properties;
- (3)** Mitigating risks to public safety and other potential detrimental impacts, including excessive noise, increased traffic, improper trash disposal, and inadequate parking facilities; and
- (4)** Protecting property values throughout the Town.

B. Applicability.

All Short-Term Rentals operating in the Town shall submit a Short –Term Rental Registration Form or apply for a Short-Term Rental Special Use Permit, as applicable, no later than six (6) months from the effective date of this section. All Short-Term Rentals shall comply with all applicable Town Code, Dutchess County, and New York State regulations.

C. Type-1 Short-Term Rental Permitting Requirements.

(1) All Type-1 Short-Term Rentals must apply for a Short-Term Rental Certificate using the “Short-Term Rental Registration Form” annexed hereto as “Appendix A – Short Term Rental Registration Form” and pay the application fee set by Resolution of the Town Board. A Short-Term Rental Certificate approving the use of a Dwelling or Accessory Dwelling Unit as a Type-1 Short-Term Rental must be issued by the Zoning Administrator prior to utilizing any Dwelling or Accessory Dwelling Unit as a Type-1 Short Term Rental.

(2) A Short-Term Rental Certificate is effective for one year from the date of issuance.

(3) A Short-Term Rental Certificate issued under this section shall require renewal by the Zoning Administrator no later than each anniversary of such issuance. The owner(s) must request the renewal in writing from the Zoning Administrator at least ninety [90] days prior to such anniversary. Failure to do so may result in the lapse of the Short Term Rental Certificate. Within thirty [30] days after receipt of a renewal request, the Zoning Administrator shall confirm the Short-Term Rental is in compliance with the terms of its Short Term Rental Certificate. The Zoning Administrator shall have the discretion to renew, amend, or deny the renewal of the Short-Term Rental Certificate for good cause shown, which may include considerations of noise, disorderly conduct, or public safety.

(4) An owner of a Dwelling or Accessory Dwelling Unit is restricted to one Short-Term Rental Certificate, regardless of the number of properties owned.

(5) Upon transfer of ownership, the new owner(s) must renew the Short-Term Rental Certificate before resuming Type-1 Short-Term Rental activities.

(6) An annual fee, due at initial certification and then upon each annual renewal of the Type-1 Short-Term Rental registration, shall be paid to the Town in an amount to be set by Resolution of the Town Board.

D. Type-2 Short-Term Rental Permitting Requirements.

(1) Owner(s) seeking to use a Dwelling or Accessory Dwelling Unit as a Type-2 Short-Term Rental must apply for and obtain a Special Use Permit from the Planning Board prior to operating a Type-2 Short-Term Rental. An application fee must be submitted in an amount set by Resolution of the Town Board.

(2) Short-Term Rental Special Use Permit applications must be made to the Planning Board utilizing the form annexed hereto as Appendix B - "Type-2 Short-Term Rental Special Use Permit Application" and shall contain the following information:

a. The name, address, email, and phone number where the owner of the Dwelling or Accessory Dwelling Unit can be reached on a twenty-four (24) hour basis.

b. The name, address, email, and phone number where the local agent of the owner of the Dwelling or Accessory Dwelling Unit can be reached on a twenty-four (24) hour basis, if different from the owner(s).

c. If the property upon which the Dwelling or Accessory Dwelling Unit is located is served by a private septic system, a septic inspection report, dated within ninety (90) days of the date of the application, stating the size of the

tank(s) and leach or absorption field or area and location and condition of all septic system components. The report must state the septic system was adequately functioning at the time of inspection. The maximum occupancy of the Type-2 Short-Term Rental is limited by the number of bedrooms allowed for the size of the septic tank and leach or absorption area, as set forth in the regulations of the NYS Department of Health, Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations, as amended, and regulations and/or standards applicable to aerobic septic systems. A system failure will require a new passing inspection report.

d. Copies of current Dutchess County Hotel Occupancy Tax Certificate.

e. Proof of one million dollars (\$1,000,000) liability and personal injury coverage provided by the Short-Term Rental Facilitator, naming the Town of Clinton as additional insured. If the Short-Term Rental Facilitator does not provide insurance coverage, proof of the following insurance coverage must be provided:

(1) A rider on a homeowner's policy that expressly covers Short-Term Rentals and provides a minimum of one million dollars (\$1,000,000.00) liability and personal injury coverage, naming the Town of Clinton as additionally insured; or

(2) A commercial insurance policy covering short-term rentals at the permitted address that provides a minimum of one million dollars (\$1,000,000.00) liability and personal injury coverage, naming the Town of Clinton as additionally insured.

e. Signatures of both the Dwelling or Accessory Dwelling Units owner(s) and the if applicable their authorized local agent.

f. A waiver signed by the owner(s) of the Dwelling or Accessory Dwelling Unit allowing the Zoning Administrator access to the

property for the purpose of inspection to verify compliance with the provisions of this section.

g. A visual depiction of the site, including driveways and parking areas.

h. A short narrative describing the owner(s) intention for the Type-2 Short-Term Rental. This must include the expected rental nights per year, number of Lodgers expected, and whether the Short-Term Rental will be owner occupied at any point during the period which the Special Use Permit is granted.

(3) Type-2 Short-Term Rental Special Use Permits are limited to one per owner(s), regardless of the number of properties owned.

(4) Any Special Use Permit issued under this section shall be in effect for one year from the date of the signed Planning Board approval letter. The Special Use Permit shall require renewal by the Planning Board no later than each anniversary of such issuance. The owner(s) of the Dwelling or Accessory Dwelling Unit must request the renewal in writing by submitting a renewal request application on the form annexed hereto as Appendix C “Type-2 Short Term Rental Special Use Permit Renewal Application” to the Planning Board at least ninety [90] days prior to such anniversary. Failure to do so may result in the lapse of the Special Use Permit. The Planning Board shall promptly refer the renewal application to the Zoning Administrator for his review. Within thirty days [30] after receipt of a renewal request by the Zoning Administrator, the Zoning Administrator shall issue a written report to the Planning Board stating whether the Short-Term Rental is in compliance with the terms of its Special Use Permit and the provisions of the Town Code. The Zoning Administrator’s report shall also include violations of the Town Code at the Dwelling or Accessory Dwelling Unit. The Planning Board shall have the discretion to amend the Special Use Permit or deny renewal for good cause shown, which may include but is not limited to

considerations of noise, disorderly conduct, or public safety. The Planning Board may, in its discretion, hold a public hearing in connection with any renewal request.

(5) A fee, due at initial approval and then upon each annual renewal of the Type-2 Special Use Permit, shall be paid to the Town in an amount to be set by Resolution of the Town Board. The failure to pay required fees shall be a violation of this section.

(6) Structural modifications requiring a Building Permit and/or Planning Board approval made to a Dwelling or Accessory Dwelling Unit being utilized as a Type-2 Short-Term Rental must be made prior to the submission of the application to renew the Type-2 Short-Term Rental Special Permit and before housing any Lodgers or undertaking such modifications.

(7) If the ownership of a Dwelling or Accessory Dwelling Unit used as a Type-2 Short-Term Rental changes, the new owner(s) must complete a Special Use Permit renewal application before renting out any part of the Short-Term Rental and must pay the annual fee before continuing to use the Dwelling or Accessory Dwelling Unit as a Short-Term Rental.

E. General Requirements.

(1) A Short-Term Rental may only be offered in a Dwelling or Accessory Dwelling Unit that is in lawful use for residential habitation. Short-Term Rentals shall only be permitted in the [] Zoning Districts.

(2) The Zoning Administrator for Type-1 Short-Term Rentals and the Planning Board for Type-2 Short-Term Rentals shall determine the maximum number of Lodgers allowed in any Short-Term Rental and the maximum number of adult daytime visitors permitted at any one time, taking into account the features of the Dwelling or Accessory Dwelling Unit, the capacity

of the septic system, the proximity of adjoining residences, the potential for noise or other disruptions to the neighborhood, and the safety of all residents and Lodgers. The maximum number of Lodgers permitted in any Dwelling or Accessory Dwelling Unit used as a Short-Term Rental shall in no case exceed two [2] adults per bedroom intended for Lodger's use, or 12 Lodgers for the entire Dwelling or Accessory Dwelling Unit, whichever is less. The maximum number of adult daytime visitors permitted at any one time shall not exceed the maximum number of permitted Lodgers in the Dwelling or Accessory Dwelling Unit used a Short Term Rental. Daytime visitors are permitted between the hours of 7:00 a.m. and 11:00 p.m.

(3) One [1] off-road parking space, not located on the Lot's lawn or vegetated area, must be provided per bedroom intended for Lodgers' use.

(4) The owner(s) of a Short-Term Rental must provide a copy of §250-28 of the Town Code regarding "General Performance Standards" to every Lodger and if applicable include such provision in the Lodger's rental contract. A copy of § 250-28 of the Town Code must be posted in a common area of the Short-Term Rental. The owner(s) of the Dwelling or Accessory Dwelling Unit shall use best efforts to ensure that Lodgers do not create noises or disturbances, engage in disorderly conduct, or otherwise violate §250-28 or any other provisions of the Town Code or any state law pertaining to noise or disorderly conduct. The owner(s) of the Dwelling or Accessory Dwelling Unit shall, upon notification from the Zoning Administrator or Building Inspector that Lodgers have created noises or disturbances, engaged in disorderly conduct, or otherwise violated provisions of the Town Code, or any county or state law, promptly use best efforts to prevent a recurrence of such conduct.

(5) A Short-Term Rental shall not advertise the availability of the Short-Term Rental in any Front, Rear or Side Yard of a Lot. No advertisements regarding the use of the Dwelling or Accessory Dwelling Unit as a Short Term Rental shall be visible from exterior of the Dwelling or Accessory Dwelling Unit.

(6) A Short-Term Rental shall not have any signs indicating it is a Short-Term Rental or other outside appearance indicating such use.

(7) All Short-Term Rentals shall post a clearly visible notice within the Dwelling or Accessory Dwelling Unit on or adjacent to the front door of the Dwelling or Accessory Dwelling Unit which contains the following information:

- a.** The name of the owner(s) of the Short-Term Rental and/or their authorized local agent and a telephone number at which each can be reached on a twenty-four-hour basis.
- b.** The 911 address of the Short-Term Rental.
- c.** The maximum number of Lodgers permitted to stay in the Short-Term Rental and the maximum number of adult daytime visitors permitted at any one time.
- d.** The requirement that all Lodgers and visitors to the Dwelling or Accessory Dwelling Unit must park in the available parking areas on such Lot and not in or along any public roadway or on any lawn or vegetated area on such Lot.
- e.** The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the Lot, unless in a sealed trash receptacle.
- f.**

(8) All Dwellings and Accessory Dwelling Units used as Short-Term Rentals must comply with the following requirements:

- a.** All provisions and requirements of the International Residential Code (IRC) of 2015, as amended.

- b.** Contain smoke detectors in appropriate locations as required by the International Residential Code (IRC) of 2015, as amended.
- c.** Contain GFI outlets in appropriate locations as required by the International Residential Code (IRC) of 2015, as amended.
- d.** For Dwellings and Accessory Dwelling Units that have laundry facilities, a metal dryer exhaust to the exterior of the Dwelling or Accessory Dwelling Unit.
- e.** Where exists a carbon monoxide risk, provide a hard-wired carbon monoxide detector.
- f.** Contain at least one fire extinguisher on each floor of the Dwelling or Accessory Dwelling Unit. Such fire extinguisher shall be conspicuously located and be certified as having been duly and timely inspected.
- g.** All stairs, porches, and decks, both indoor and outdoor, shall be properly illuminated and safe, as determined by the Zoning Administrator.
- h.** The entrance to the driveway on the Lot upon which the Dwelling or Accessory Dwelling Unit is located must contain a reflective four (4) inch high address number posted three feet high.
- i.** The maximum occupancy for a Short Term Rental shall be the smaller of:
 - (1) The maximum number of people allowed based on the septic inspection report, if applicable; or
 - (b) The number of people calculated on the basis of 2 persons per sleeping room (unless the room size is below 100 square feet), plus an additional 2 persons. For this purpose, a sleeping room is defined as a fully enclosed habitable space of at least 70

square feet for one person and 100 square feet for two persons, with an emergency escape or rescue opening.

F. Enforcement.

(1) Upon the discovery of any violations of this §250-69.1, the Zoning Administrator is authorized to issue an Order to Remedy and/or Stop Work Order in accordance with § 250-89 (E) and (F) of the Town Code prohibiting the further use of the Dwelling or Accessory Dwelling Unit as a Short Term Rental. The Zoning Administrator is also authorized to issue an Appearance Ticket for violations of this section in accordance with § 250-89 (G) of the Town Code.

(2) Any violation of this § 250-69.1 shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in §250-102. Enforcement proceedings may be commenced in Town of Clinton Justice Court by the Zoning Administrator, the Attorney for the Town or Town Attorney. Any enforcement action must be authorized pursuant to a Town Board resolution. Additionally, upon the approval of the Town Board, the Zoning Administrator and/or the Town Attorney or Attorney for the Town are also authorized to commence a suit in any court of competent jurisdiction to enjoin the use of the Dwelling or Accessory Dwelling Unit as a Short Term Rental, as well as seek monetary damages, fines and penalties.

4. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, which shall remain in full force and effect.

5. This Local Law is adopted pursuant to § 261-263 of the Town Law and § 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to

adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and, in accordance with Town Law of New York State.

6. To the extent that any provision of this chapter is inconsistent with Town Law §§ 263, 274-a, 274-b or any other provision of Article 16 of the N.Y. Town Law, or of the N.Y. Real Property Law, the provisions of this chapter are expressly intended to and do hereby supersede any such inconsistent provisions under the Town's municipal home rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.

7. This Local Law shall take effect immediately upon filing with the Secretary of State.