

2/7/2020 1

Dutchess County Department of Planning and Development

FOR COUNTY OFFICE USE ONLY

To: Shelby-Franch Carol Mackin Date: 2-24-2020 # pgs: 12
 Co./Dept. Planning: Town Clerk From: Carol Mackin DC Planning
 Fax #: 486-3610 Phone: 486-3610

239 Planning/Zoning Referral - Standard Form

Municipality: Town of Clinton
 Referring Agency: Planning Board Zoning Board of Appeals Municipal Board
 Tax Parcel Number(s):
 Project Name: Short Term Rentals Local Law
 Applicant: Town of Clinton
 Address of Property: 1215 Centre Road Rhinebeck, NY 12572

Please fill in this section

- Type of Action:**
- Local Law / Text Amendment
 - Rezoning
 - Site Plan
 - Special Permit
 - Use Variance
 - Area Variance
 - Other: _____

- Parcels within 500 feet of:**
- State Road _____
 - County Road _____
 - State Property (with recreation area or public building)
 - County Property (with recreation area or public building)
 - Municipal Boundary
 - Farm operation in an Agricultural District

Date Response Requested (if less than 30 days): February 10, 2020

If subject of a previous referral, please note County referral number(s):

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Response from Dutchess County Department of Planning and Development

- | | |
|--|---|
| <p>No Comments:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Matter of Local Concern <input type="checkbox"/> No Jurisdiction <input type="checkbox"/> No Authority <input type="checkbox"/> Withdrawn | <p>Comments Attached:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Local Concern with Comments <input type="checkbox"/> Conditional <input type="checkbox"/> Denial <input type="checkbox"/> Incomplete — municipality must resubmit to County <input type="checkbox"/> Incomplete with Comments — municipality must resubmit to County |
|--|---|

Date Submitted: <u>1/29/20</u>	Notes: <u>Fax received 1/16/2020 re. SEQR info submitted 1/29/2020 (tl)</u>	<input type="checkbox"/> Major Project
Date Received: <u>1/29/20</u>		Referral #: <u>ZR 20-024</u>
Date Requested: <u>2/10/20</u>		
Date Required: <u>2/27/20</u>	<input checked="" type="checkbox"/> Also mailed hard copy	Reviewer: <u>Heather M. Lal</u>
Date Response Faxed: <u>2/7/20</u>		

REC'D 2020 JAN 15 PM 1:55:10P

MARCUS J. MOLINARO
COUNTY EXECUTIVE



EOIN WRAFTER, AICP
COMMISSIONER

COUNTY OF DUTCHESS
DEPARTMENT OF PLANNING AND DEVELOPMENT

February 7, 2020

To: Town Board, Town of Clinton
Re: Referral 20-024 — LL: Short-Term Rentals

The Dutchess County Department of Planning and Development has reviewed the submitted referral for countywide and Intermunicipal impacts as required in General Municipal Law (Article 12B, §239-l/m).

ACTION

The Town Board is seeking to adopt a local law creating §250-69.1 Short-Term Rentals, as well as changes/additions to related zoning definitions.

COMMENTS

With the continued rise of short-term rental activity taking place in many Dutchess County communities, municipalities are beginning to discuss the issues and adopt local regulations in an effort to balance the pros and cons of this type of land use. We applaud the Town of Clinton for tackling this issue, and offer the following comments regarding the draft language submitted to our office for review:

Overall, the language and organization of the law appears to be more confusing than necessary. Every effort should be made to craft these new regulations as clearly and concisely as possible to ease the public's understanding of them as well as the enforcement process. The Town has taken a 2-tiered approach to the regulations which isn't clear early on. It may help to provide a brief overview of this 2-tiered approach, perhaps as part of the Purpose and Objectives section of the law.

Definitions

- *Bed and Breakfast Establishment (B&B) versus Short-Term Rental (STR):*
 - The distinction between these two uses appears to be based primarily on the number of rooms being rented, and tangentially the provision of meals (though the definition for *Short-Term Rental (STR)* does not expressly prohibit meals). Limiting STRs to only one room rental, while requiring a minimum of two rooms for a B&B, seems unnecessarily prescriptive and limiting to both types of uses. The Town could consider other ways to better distinguish these uses from one another to maintain flexibility for both uses. One possibility would be to acknowledge the state-level regulatory and permitting requirements as a distinguishing feature of B&Bs, or expressly prohibit the provision of meals in STRs.
 - The B&B definition refers to "rented for transient occupancy" and the STR definition refers to "temporary occupancy." Is there an intended difference? If not, consider using the same language in both definitions.
- *Short-Term Rental:* The definition refers to "rental lodgings" but there is no definition explaining what is meant by that terminology. Consider adding a separate definition, or replace it with already-defined terminology.

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- *Type-1, Hosted STR and Type-2, Non-Hosted STR:*
 - The “Type-1” and “Type-2” prefixes are unnecessary and create overly long terminology that clutters the language throughout the regulations. In addition, the prefixes are reminiscent of SEQRA-related terminology and thus could be confusing. We suggest the more concise *Hosted Short-Term Rental* and *Non-Hosted Short-Term Rental* as they are more concise yet still provide adequate distinction between the two types of STRs.
 - Limiting hosted STRs to only a single bedroom seems unnecessary.
 - If a property contains both a Dwelling Unit and an Accessory Dwelling Unit, and the owner remains on-site in one of the units while renting the other unit out as an STR, would the Town consider that hosted or unhosted? We would suggest that scenario could be considered hosted, and suggest the Town accommodate that distinction within the new law.
- *Short-Term Rental Certificate:* In order to simplify the language, we suggest the following edit “A document issued by the Zoning Administrator which permits ~~a the use of a Dwelling or Accessory Dwelling Unit as a Type-1, Hosted Short-Term Rental...~~”
- *Short-Term Rental Facilitator:* Given the definition of what this term is intended to mean, a more intuitive choice might be “Short-Term Rental Platform” as that is the typical term for STR websites.

§250-69.1 (C) ~~Type-1, Hosted Short-Term Rentals~~

- Subsection (1): We suggest simplifying the language a bit, as follows, “All ~~Type-1, Hosted Short-Term Rentals~~ must apply for a Short-Term Rental Certificate using the application form provided by the Town, “Short-Term Rental Registration Form” and pay...”
- Subsection (3):
 - Additional information should be provided to guide the Zoning Administrator in his/her “discretion” about the types of issues that could result in denial of an STR Certificate. Elsewhere in the law it refers to §250-28 (General Performance Standards); that reference could be included in this section as well.
 - We suggest the following addition to the last sentence of this section, “...for good cause shown, which may include but is not limited to consideration of...”
 - The Town might also want to include mention of reviewing any open code violations/complaints as a part of the certificate renewal process (similar to what was included in subsection D(4)).
- Subsection (4): Why is this more stringent than what is allowed when a transfer of property ownership occurs in conjunction with a Non-Hosted STR? See subsection D(7).
- Subsection (5): Clarify whether the “annual fee” is in addition to the initial “application fee” noted in C(1).

§250-69.1 (D) ~~Type-2, Non-Hosted Short-Term Rentals~~

- There are several instances within this section where the “Non-Hosted” portion of the term is missing; the Town should review all references to that type of STR to ensure they are listed correctly.
- Subsection (1): As per §250-97(A)(1), the Town may want to note that, “Special use permits are also subject to the requirements of §250-96, Site Plans.”
- Subsection (2)(e): Requiring the use of coverage by the STR Facilitator (the rental platform) seems a bit prescriptive. Our understanding is that “insurance” offered by these companies may not be as robust as coverage offered by a traditional insurance provider. The Town may want to leave the choice up to the applicant as to whether they use their STR Facilitator’s coverage or whether they choose to purchase a policy from a separate insurance company.

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- Subsection (2)(e) – [note that (e) was used twice in a row (typo?)]: We suggest, “Signatures of all ~~both~~ the Dwelling...”
- Subsection (2)(g): Is this required to be prepared by a professional? If not, that should be stated.
- Subsection (2)(h): Will the owner(s) be held to strict adherence of their intentions as listed per this section? It appears to involve some guesswork, which could complicate enforcement if the Town intends to hold the owner to their initial guesstimates.
- Subsection (4):
 - Towards the end of the subsection, reference is made to certain considerations that could result in amendment or denial of the requested special use permit; this list should match the one found earlier in subsection C(3), “consideration of noise, sound, smoke, ~~disorderly~~ conduct, or public safety.”
 - The last sentence suggests the Planning Board can decide “in its discretion” to hold a public hearing. Section 250-97(A)(6) of Clinton’s town code, in alignment with §274-(b)(6) of NYS Town Law, *requires* a public hearing prior to the issuance of a special use permit.
- Subsection (5): Clarify whether the “fee, due at initial approval” is in addition to the initial “application fee” noted in D(1).
- Subsection (7): We note that this is a less stringent requirement than what was listed for Hosted STRs. If that is the intent, we suggest at least requiring the new owner to provide updated contact information for themselves and their local agent, if applicable.

§250-69.1 (E) General Requirements

- Subsection (1): The Schedule of Permitted Uses should also be updated to reflect the districts where Short-Term Rentals are permitted.
- Subsection (2): We question the enforceability of the regulations regarding the maximum number of daytime visitors permitted.
- Subsection (7): Will the Town perform an inspection, or require a signed affidavit of compliance, in order to ensure that these requirements are being met?
- Has the Town considered including details outlining a revocation process for either the STR Certificate or STR Special Use Permit? There could be a process for situations where an issue arises and the Town may feel the need to act quickly, versus relying solely on the annual renewal process to modify a permit.

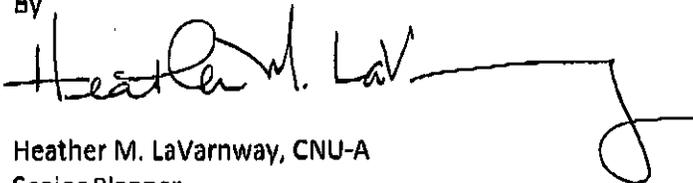
As always, we would be happy to discuss our comments with representatives from the Town.

RECOMMENDATION

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP, Commissioner

By



Heather M. LaVarnway, CNU-A
Senior Planner