

LOCAL LAW NO. 2 OF THE YEAR 2023
TOWN OF SOMERSET
COUNTY OF NIAGARA, STATE OF NEW YORK

A local Law Enacting Short-Term Rental Regulations

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

Section 1. Title

This local law shall be known as and may be cited as Local Law No. 2-2023, to amend the Somerset Town Code to add Chapter 155, "Short-Term Rentals" requiring owners to obtain a Short-Term Rental Permit from the Town of Somerset Planning Board to continue or commence operation of a Short-Term Rental.

Section 2. Purpose, Intent and Authority

- A. The Town recognizes that Short-Term Rentals can attract visitors to the Town of Somerset and may also provide an additional source of income to Town residents. The Town also recognizes that Short-Term Rentals can create a threat to the public health, safety and welfare to Town residents. This law is intended to preserve and protect the health, character, safety, and general welfare of the Town and mitigate adverse effects of short-term rentals.
- B. This Chapter shall apply to all that portion of the Town of Somerset outside the Village of Barker.
- C. This Chapter is adopted pursuant to New York Municipal Home Rule Law.

Section 3. Definitions

As used in this Chapter, the following terms shall have the meaning indicated:

Short-Term Rental – Any portion of real property rented for compensation in exchange for lodging for a period of not more than thirty-one (31) consecutive days. For the purpose of this Chapter, the term "Short-Term Rental" shall not include a bed-and-breakfast, hotel, motel, or ongoing month-to-month tenancies.

Section 4. Presumption of Dwelling Unit as Short-Term Rental Property

- A. The presence of the following shall create a presumption that all or a part of the property is being used as a Short-Term Rental:

- a. All or part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO, for a rental period of less than thirty-one (31) days; and/or
 - b. All or a part of the property is offered for lease for a period of thirty-one (31) days or less through any form of advertising.
- B. The foregoing presumptions may be rebutted by presenting evidence to the Code Enforcement Officer that the premises is not operated as a Short-Term Rental.

Section 5. Permit Required.

- A. Owners shall not use their property as a Short-Term Rental without obtaining a revocable Short-Term Rental permit from the Town of Somerset Planning Board.
- B. A Short-Term Rental Permit shall be valid for one (1) year and must be renewed In April of each calendar year if the premises is to continue to operate as a Short-Term Rental.
 - a. Renewal applications shall be mailed to the property owner or designee in March of each calendar year. Failure to submit a renewal application may result in the revocation of the Short-Term Rental permit pursuant to Section 9(C) of this Chapter.
- C. The Short-Term Rental permit is not transferable to a new owner. The new owner of the premises subject to a Short-Term Renal permit must file a new permit application.
- D. Notwithstanding the foregoing, properties with Short-Term Rental commitments existing on the date this Chapter takes effect shall be permitted to honor such existing commitments and continue to make commitments for Short-Term Rentals, but must apply for a permit within one-hundred eighty (180) days of this Local Law's effective date for all future Short-Term Rental commitments. In the event such application is denied, all commitments shall be cancelled.

Section 6. Short-Term Rental Permit Application Requirements.

- A. Applications for a Short-Term Rental permit may be obtained at the Town of Somerset Town Clerk's Office and submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable permit fee to be determined from time to time by resolution of the Town Board. The application shall include the following:
 - a. The signatures of all owners or their designated agents.

- b. A statement authorizing the Code Enforcement Officer to inspect the property to ensure compliance with all requirements and standards contained within this chapter.
 - c. A list of each property owner and the name of any manager or management company managing the property, including names, addresses, telephone numbers and email addresses of each.
 - d. The name, address, telephone number and email address of a contact person, who shall be responsible and authorized to act on the owners' behalf to promptly remedy any violation of the standards outlined in this Section. For properties owned by limited liability companies, corporations, and partnerships, the applicant shall provide an address for service of process.
 - e. An accurate suitable floor plan for each level of the dwelling that can be occupied measuring at least 8.5 inches by 11 inches, drawn to scale and certified by the applicant. The floor plan must include the following:
 - i. Location of buildings and required parking.
 - ii. Basement – location of house utilities and all rooms including bedrooms, windows, exits and any heating/cooling units.
 - iii. First floor – all rooms including bedrooms, windows, exits and any heating/cooling units.
 - iv. Second floor – all rooms including bedrooms, windows, exits and any heating/cooling units.
 - v. Attic (if applicable) – all rooms including bedrooms, windows, exits and any heating/cooling units.
 - f. A statement that none of the owners of the subject property have had a Short-Term Rental permit revoked within the previous year for any rental properties owned individually or jointly with other within the Town of Somerset.
- B. All completed short-term rental applications are subject to a Floor Plan Review and Approval by the Town of Somerset Planning Board. Upon approval of the application, the Code Enforcement Officer shall grant a short-term rental permit.

Section 7. Short-Term Rental Standards

All Short-Term Rentals shall meet the following standards:

- A. Property Requirements:

- a. Smoke and Carbon Monoxide Detectors – There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
 - b. Emergency Evacuation Procedures – Evacuation procedures must be posted in each sleeping room to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting or other alarm device.
 - c. Fire Extinguishers – There shall be an ABC fire extinguisher on each floor and in the kitchen. Fire extinguishers shall be inspected monthly by the permit holders.
 - d. The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.
 - e. Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
 - f. Electrical systems shall be inspected by a third party electrical inspector to ensure no visual defects or unsafe conditions prior to initial short-term rental permit application.
 - g. All fireplaces shall comply with all applicable law and regulations.
 - h. The property containing the proposed short-term rental must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application.
 - i. The maximum occupancy for each short-term rental unit shall not exceed two (2) people per bedroom shown on the floor plan.
 - j. In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any dwelling unit that contains a Short-Term Rental permit exceed two (2) people per bedroom.
- B. All applicants and permit holders must provide a “Evidence of Property Insurance” and “Certificate of Liability Insurance” indicating the premises is rated

as a Short-Term Rental property maintain such insurance throughout the term of the Short-Term Rental permit.

- C. Provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors, and placed where they are not clearly visible from the road except at pick-up time.
- D. All applicants and permit holders shall have a rental contract, which includes the following policies and statements:
 - a. Maximum property occupancy.
 - b. Maximum on site parking provided.
 - c. Good Neighbor Statement stating:
 - i. That the short-term rental is in a residential area in the Town of Somerset and that renters shall be conscious of the residents in neighboring homes;
 - ii. A statement that guests must comply with the Noise Law of the Town of Somerset.
 - iii. A statement that all fires must be attended.

Section 8. Procedure upon Filing Application.

- A. Short term rental permit applications shall be filed with the Town of Somerset Code Enforcement Officer with all supporting documents and the nonrefundable permit fee. Only completed applications will be accepted by the Code Enforcement Officer.
- B. Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this Chapter, and the application fee, the Code Enforcement Office shall conduct a property inspection within thirty (30) days to certify that all short-term rental requirements have been met.
- C. Within thirty (30) days of the Code Enforcement Officer's inspection and certification of the short-term rental application, the Code Enforcement Officer shall refer the application to the Town Planning Board for review.
- D. Upon acceptance of the Short-Term Rental Application by the Town of Somerset Planning Board, the Planning board shall schedule a public hearing within sixty (60) days. Public hearing notices shall be advertised at least five (5) days prior to the hearing date in a newspaper of general circulation in the Town and delivered, via first class mail, to the property owners within five-hundred (500) feet of said property.

- E. Upon completion of the public hearing, the Town of Somerset Planning Board shall approve, with or without conditions, or disapprove the Short-Term rental permit within sixty (60) days. The Planning Board may impose any such reasonable conditions and restrictions as are related to and incidental to the use of the property for short-term rentals.
- F. Upon approval of the Short-Term rental permit by the Town of Somerset Planning Board, the Code Enforcement Officer shall issue the applicant a short-term rental permit. The permit shall include the following information:
 - a. The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available during the entire time the short-term rental property is being rented;
 - b. The maximum occupancy and vehicle limits for the short-term rental property;
 - c. Identification of the number of and location of parking spaces available;
 - d. Any conditions imposed by the Planning Board and/or Code Enforcement Officer.

Section 9. Compliance, Hearings and Penalties.

- A. Violations of this Section or of any short-term rental permit issued pursuant to this Chapter shall be subject to enforcement and penalties prescribed in this Chapter.
- B. In the event the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this Section or of any short-term rental permit issued pursuant to this Chapter, the Code Enforcement Officer shall refer such matter to the Planning Board along with a copy of the complaint, if applicable, a written report, if any, pertaining to any investigation and/or inspection conducted relative to the alleged violation and any other facts or documents pertaining thereto. The Planning Board shall schedule a hearing to be held within thirty (30) days and mail, by first class mail to the address(es) provided on the short-term rental application, written notice thereof to the owners and residents of the subject property no less than ten (10) days prior to the date of the hearing. At the conclusion of the hearing, the Planning Board shall determine if the terms of the short-term rental permit or the regulations contained in this Chapter were violated and, if it finds that there was a violation or violations, the Planning Board may take the following actions:

- a. Attach reasonable conditions to the existing short-term rental permit;
 - b. Suspend the short-term rental permit; and/or
 - c. Revoke the short-term rental permit. Should a permit be revoked, none of the owners of the short-term rental unit may obtain any short-term rental permit sooner than one (1) year after the date of revocation.
- C. The Planning Board may suspend or revoke a short-term rental permit by application from the Code Enforcement Officer based upon, among other, any of the following grounds:
- a. Applicant has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of property or registration of property owner.
 - b. Applicant violated any provision of this Chapter during the term of the short-term rental permit or conditions of the Short-Term Rental Permit.
 - c. Applicant or any tenant violated any provisions of the Code of the Town of Somerset.
 - d. Applicant or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of the short-term rental unit.
 - e. Any conduct on the premises, which is unreasonable under the circumstances and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.

Section 10. Violations; penalties for Offenses.

- A. The Code Enforcement Officer is authorized to issue appearance tickets for any violations of this Chapter.
- B. Any person who violates any provisions of this Chapter, or any term or condition of the Short-Term Rental Permit, shall be guilty of a violation punishable by a fine not exceeding \$250.00, or imprisonment for a period not to exceed fifteen (15) days, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue.

Section 11. Effective Date.

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