

LOCAL LAW NO. _____ OF 2023

A LOCAL LAW TO REGISTER, AND IMPLEMENT PUBLIC SAFETY STANDARDS FOR, SHORT TERM RENTAL PROPERTIES

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF KEENE AS FOLLOWS:

SECTION 1. PURPOSE AND AUTHORITY

A. The purpose of this Local Law is to establish comprehensive permitting regulations to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, oversight and maintenance of short-term rental properties.

B. The Town Board reserves the right to adopt regulations by Resolution to carry out the provisions and purposes of this Local Law.

C. This Local Law is adopted pursuant to the New York Municipal Home Rule Law.

SECTION 2. DEFINITIONS

“CHANGE IN OWNERSHIP”: a transfer of ownership whether by deed of real property, by transfer of membership interest in the case of a limited liability company, by transfer of partnership interest in the case of a partnership, or by transfer of shareholder interest in the case of a corporation. Neither the death of an owner leaving one or more surviving joint tenant(s) with right of survivorship, nor real property conveyances, without consideration, from individuals to an entity of which the transferors are principals, shall constitute a change of ownership.

“ENFORCEMENT OFFICER”: the Code Enforcement Officer for the Town of Keene.

“OWNER”: any natural person, limited liability company, partnership or corporation which owns or has an ownership interest in a property or dwelling unit used as a short term rental.

“OWNER” shall include the members, partners and shareholders of any limited liability company, partnership or corporation, respectively, that has an ownership interest in the the property or dwelling unit.

“PROPERTY OR DWELLING UNIT”: any single-family dwelling, two-family dwelling, condominium unit, co-op unit, townhouse, residential apartment, guest house, cottage, cabin, accessory dwelling unit or other dwelling unit of any kind, including lean-tos and other campsite structures used as living quarters.

"RENTAL": granting use or possession of a property or dwelling unit, in whole or in part, to any person, group of persons or entity in exchange for consideration valued in money, goods, labor, credits or other valuable consideration.

“SHORT-TERM RENTAL” : rental of any property or dwelling unit, in whole or in part, to any person, group of persons or entity for a period of less that thirty (30) consecutive nights. Neither time-share units, hotels, motels, bed and breakfast establishments, nor use of a short-term rental by a record owner or family member of a record owner of a property or dwelling unit shall constitute a short-term rental.

“SHORT TERM RENTAL PROPERTY”: any property or dwelling unit used for short term rental, including the parcel of land on which the property or dwelling unit is located.

“OCCUPANT”: any person, including children, located on a short term rental property between the hours of 10:00pm and 6:00am, prevailing time.

SECTION 3. SHORT TERM RENTAL PERMITS.

- A.** An owner shall obtain a revocable short-term rental permit prior to and whenever a property or dwelling unit is to be used for short-term rental.

- B.** No property or dwelling unit may be used for short term rental without a short term rental permit.

- C.** A short term rental permit shall be valid for two (2) years from the date of issue and must be renewed prior to expiration for so long as the property or dwelling unit is used for short term rental.

- D.** Short term rental permits are not transferable in the event of a change in ownership of the property or dwelling unit.

- E.** Only one (1) short term rental permit may be issued per property or dwelling unit.

- F.** No short term rental permit shall be issued or renewed unless and until: (i) the property or dwelling unit complies with all applicable laws, rules and regulations, including, without limitation, this Local Law, and any regulations promulgated hereunder, the Town of Keene Site Plan Review Law, the Town of Keene Water Law, and the New York State Building Code; and (ii) the property or dwelling unit is registered with the Occupancy Tax Program administered by the Essex County Treasurer's Office.

G. Violations of any provisions of a short term rental permit or this Local Law or any regulations promulgated hereunder may result in a revocation or suspension of the short term rental permit and the owner shall be subject to the penalties set forth herein.

H. A list of short term rental permits may be published and updated quarterly by the Town of Keene [on the Town's webpage]. Information included shall be limited to permit number, physical address, maximum occupancy and number of parking spaces.

SECTION 4. SHORT TERM RENTAL PERMIT APPLICATION REQUIREMENTS.

A. An application for issuance or renewal of a short term rental permit shall be submitted to the Enforcement Officer, signed by all owners of the subject property or dwelling unit, accompanied by (i) payment of the permit fee in the amount set from time to time by Resolution of the Town Board, and (ii) a copy of the current vesting deed to the property or dwelling unit evidencing how title to the property or dwelling unit is currently held.

B. The application shall be in a form prescribed by the Enforcement Officer and shall provide, at a minimum, the following information:

1. A list of all owners of the short term rental property including, names, addresses, telephone numbers and email addresses. If the short term rental property is owned by a limited liability company, partnership, corporation or other entity, the list shall include the names, addresses, telephone numbers and email addresses of all members, partners, shareholders and other principals of such entities.

2. The name, address, telephone number and email address of an owner, principal of owner, or an agent of the owner, authorized to act on the owner's behalf, who shall be available

to promptly remedy any violation of this Local Law or of the short term rental permit. The owner, principal of owner or agent of owner must be located within sixty (60) minutes by car of the short term rental and must be available 24 hours a day, seven days a week.

3. A completed affidavit, in a form prescribed by the Enforcement Officer, signed by all owners of the short term rental property and properly notarized.

Such affidavit shall certify compliance with the following minimum standards:

(i) owners shall at all times maintain one (1) functioning smoke detector in each bedroom and at least one (1) functioning smoke detector in the main room of each level, one (1) functioning fire extinguisher on each level and in each room with an open flame source, and at least one (1) functioning carbon monoxide detector on each level;

(ii) at all times all exterior doors shall be operational and all passageways to all exterior doors shall be clear and unobstructed;

(iii) all electrical systems shall be serviceable with no visual defects or unsafe conditions;

(iv) all sanitary facilities, including latrines, shall be properly maintained and in working order;

(v) all septic systems shall be properly maintained and in working order, shall be in compliance with all applicable regulations of the New York State Department of Health, and shall have been pumped out within the last two (2) years prior to the date of the application;

(vi) all fireplaces, fireplace inserts and other fuel burning heaters and furnaces shall be properly installed and vented, flues and chimneys shall be cleaned annually, and proper written operating instructions for such equipment (excluding furnaces) shall be provided in each short term rental property;

Such affidavit shall also certify (i) the number of bedrooms within the short term rental property that comply with this Local Law, and regulations promulgated by the Town Board hereunder (ii) the number of parking spaces on the short term rental property that comply with this Local Law and regulations promulgated by the Town Board hereunder; (iii) that the applicant has complied and will continue to comply with the requirements of this Local Law and all regulations promulgated by the Town Board hereunder.

SECTION 5. PROCEDURE UPON FILING OF APPLICATION.

A. Upon filing with the Enforcement Officer the permit application, permit fee, and all documents required in connection with such application, the Enforcement Officer shall have thirty (30) days to review the application and issue the short term rental permit, with or without conditions as hereafter provided, or notify the applicant in writing that the application has been denied, along with the reasons for the denial.

B. In reviewing the application, the Enforcement Officer shall have the right to inspect the short term rental property for purposes of ensuring compliance with the requirements of this Local Law and all regulations promulgated by the Town Board hereunder, after obtaining the express consent of the property owner or the agent designated by the property owner in the application.

C. In issuing a short term rental permit, the Enforcement Officer may impose such reasonable conditions and restrictions as are directly related to the use of the property or dwelling unit as a short term rental property, provided such conditions are consistent with the requirements of this Local Law and any regulations promulgated by the Town Board hereunder.

D. The Enforcement Officer may deny an application for any of the following reasons:

(i) if the application is incomplete, the information required by this Local Law or any regulations promulgated by the Town Board hereunder was not included with the application, or the full permit fee, in an acceptable form of payment, was not included with the application;

(ii) if the Enforcement Officer previously issued any short term rental permit to any of the owners of the property or dwelling unit and any such owners had any short term rental permit revoked within the previous year or any such owners had any short term rental permit suspended more than one (1) time during any annual period;

(iii) if the affidavit submitted, or an inspection conducted by the Enforcement Officer, evidences that the subject property is not in compliance with the requirements of this Local Law and any regulations promulgated by the Town Board hereunder.

(iv) if access is not granted to the subject property for purposes of an inspection by the Enforcement Officer.

SECTION 6. ISSUANCE OF PERMITS; DISPLAY AND NOTIFICATION

A. All short term rental permits issued hereunder shall specify the following:

- (i)** the physical street address of the short term rental property;
- (ii)** the names, addresses, telephone numbers and email addresses of every person and every principal of every entity that has an ownership interest in the short term rental property and of the primary contact person who shall be available to respond within 60 minutes and investigate complaints during the entire time the short term rental is being rented;
- (iii)** the maximum occupancy and vehicle limits for the short term rental property;
- (iv)** identification of the number and location of parking spaces available;
- (v)** any conditions imposed by the Enforcement Officer;
- (vi)** the short term rental expiration date; and
- (vii)** a statement that the short term rental permit may be revoked or suspended for violations.

B. The validity of a short term rental permit is subject to continued compliance with any conditions contained in the short term rental permit, the requirements of this Local Law and all regulations promulgated by the Town Board hereunder.

C. Prior to any occupant taking occupancy of the short term rental property, a hard copy of the short term rental permit shall be prominently displayed within the interior of the short term rental property in an area easily and readily viewable by the occupants.

D. It shall be the obligation of the owners of a short term rental to ensure that current and accurate information is provided to the Enforcement Officer and the owners shall notify the Enforcement Officer promptly upon any change in information contained on the short term rental permit. If, based on such changes, the Enforcement Officer issues an amended short term rental permit, the owners shall replace the displayed permit with the amended permit.

E. The Enforcement Officer shall, with the issuance of each short term rental permit, provide a packet of information, including “Good Neighbor Guidelines” to be developed by the Enforcement Officer and approved by the Town Board, summarizing the restrictions, requirements and guidelines applicable to short term rentals. All owners of short term rentals shall provide a copy of the information packet to occupants of the short term rental.

SECTION 7. SHORT TERM RENTAL STANDARDS.

A. The maximum number of occupants for each short term rental property shall be the most restrictive of the following:

(i) two (2) times the number of bedrooms that are in compliance with the New York State Building Code plus two (2) additional occupants; or

(ii) maximum capacity of the septic system for the short term rental property.

The maximum number of occupants for the short term rental shall be clearly and prominently displayed in all listings or advertisements.

B. The number of vehicles permitted overnight on the short term rental property shall be limited to one (1) vehicle per bedroom. The allowable number of vehicles on the short term rental property shall be clearly and prominently displayed in all listings or advertisements.

C. The street address number of the short term rental property shall be maintained and clearly visible from the street or road on which the short term rental property is located.

D. A written notice of the following information must be posted in a highly and clearly visible area near the main entrance of the short term rental property:

- (i)* physical street address of the short term rental property;
- (ii)* dial 911 instruction for fire, police and EMS services; and
- (iii)* a drawing showing the approximate size and location of the buildings on the short term rental property and the location of designated parking.

E. All standards set forth in the affidavit submitted by the owners in connection with the application for a short term rental permit shall at all times be complied with.

SECTION 8. COMPLAINTS AND VIOLATIONS.

- A.** Owners, operators, managers, marketers and occupants of short term rental properties shall comply with all applicable federal, state and local laws, rules and regulations, including, without limitation, the provisions of this Local Law and any regulations promulgated by the Town Board hereunder.
- B.** The following process shall apply in the event of a complaint alleging a violation of this Local Law, any regulations promulgated by the Town Board hereunder, or a short term rental permit issued hereunder:
- (i)* In the event of violations that are emergency in nature, the complaining party may contact an appropriate law enforcement agency, and the owner or designated agent of the property owner shall, within sixty (60) minutes of receiving a complaint, respond to the complaint and remedy as promptly as possible any violation of the short term rental permit, this Local Law or any regulations promulgated by the Town Board hereunder. The complaining party shall also notify the Enforcement Officer of its complaint to law enforcement and the nature of the complaint as soon as reasonably practicable.
- (ii)* In the event of violations that are not emergency in nature, or if the response to a complaint under clause (i) above is not satisfactory to the complaining party, the complaining party may file a written complaint with the Enforcement Officer. The form of complaint shall be established by the Enforcement Officer and may be filed in person, by mail or by email. The complaint shall provide pertinent information including the date, time and nature of the alleged violation.

(iii) If the Enforcement Officer finds a violation of the short term rental permit or this Local Law or any regulations promulgated by the Town Board hereunder, the Enforcement Officer may:

1. Attach reasonable conditions to the short term rental permit;
2. Issue a warning or a violation;
3. Suspend the short term rental permit;
4. Revoke the short term rental permit.

In the event a short term rental permit is revoked, none of the owners or principals of owners may obtain a short term rental permit earlier than one (1) year from the date of such revocation. In the event a short term rental permit is suspended more than (1) time during any one (1) year period, the short term rental permit may not be renewed earlier than one (1) year from the date of the second suspension.

(iv) The Enforcement Officer or the Town of Keene may initiate enforcement proceedings at any time following receipt of a complaint or discovery of a violation.

(v) Decisions of the Enforcement Officer will be provided to the parties and may be appealed, as provided herein, within thirty (30) days of receipt of the decision, by the owners of the short term rental property or by the complainant.

SECTION 9. APPEALS PROCESS.

A. The STR Appeals Board shall hear all appeals of decisions by the Enforcement Officer. The Town Board shall constitute the STR Appeals Board. The STR Appeals Board shall have all of the powers and duties prescribed by law and may reverse, affirm or modify in whole or in

part, any order, requirement, decision or determination of the Enforcement Officer, in its discretion.

B. The decision or determination of the Enforcement Officer appealed from shall not be stayed unless the STR Appeals Board, in its discretion, agrees to grant appellant such stay upon appellant's application for such stay.

C. A party who wishes to appeal the decision or determination of the Enforcement Officer shall make a written request for a hearing to the Town Clerk and the STR Appeals Board shall endeavor to hear the appeal within 15 days of the request. At the hearing, the STR Appeals Board shall not be bound by strict rules of evidence and may accept evidence, including reliable hearsay evidence, offered by the short term rental property owner, the complaining party, the Enforcement Officer and any other witness with relevant evidence. The STR Appeals Board shall render its decision within 10 days of the hearing.

SECTION 10. PENALTIES.

A. A short term rental permit may be revoked or suspended as provided in Section 8.

B. Any person or entity that violates, or assists in the violation, of any provision of this Local Law, any regulations promulgated by the Town Board hereunder, or the terms of a short term rental permit, or that owns or operates a short term rental at which a violation occurs, shall be subject to the following criminal or civil penalties:

(i) by a fine or civil penalty of \$1000 for a first violation;

(ii) by a fine or civil penalty of \$2000 for a second violation, both of which violations were committed within a period of two (2) years;

(iii) by a fine or civil penalty of \$3000 for a third violation, all of which violations were committed within a period of two (2) years.

Each violation that continues for a period of one (1) week shall constitute a separate additional violation for each week such violation continues.

In the event of the occurrence of more than three (3) violations during any two (2) year period, the fine or civil penalty shall be \$5000 and the short term rental permit shall be permanently revoked and not eligible for renewal.

B. The Enforcement Officer may bring a criminal or civil proceeding in Town Court for enforcement of this Local Law and any regulations promulgated by the Town Board hereunder.

C. The Town of Keene may seek injunctive relief, civil penalties and any other relief available to enforce the provisions of this Local Law and any regulations promulgated by the Town Board hereunder through commencement of an action in the New York State Supreme Court. Such action must be authorized by a resolution of the Town Board. As part of such action, the Town of Keene may seek and obtain an order from the Court requiring the defendant to reimburse the Town for its attorney's fees and costs related to the action.

D. Enforcement remedies available are not exclusive and may be sought cumulatively.

E. Any Owner determined to be in violation of any of the provisions of this Local Law, or any regulations promulgated by the Town Board hereunder, shall be obligated to reimburse the Town of Keene for its enforcement costs, including its reasonable attorneys fees.

SECTION 11. MISCELLANEOUS.

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

B. All Local Laws or ordinances, or parts of Local Laws or ordinances, in conflict with any part of this Local Law are hereby repealed.

C. This Local Law shall take effect immediately upon filing in the Office of the New York Secretary of State as provided in New York Municipal Home Rule Law Section 27, subject to a six (6) month grace period for existing short term rental properties to comply with this Local Law.