

Regular Town Board Meeting  
October 10, 2023 5:30 pm  
Town Hall  
Joseph P. Wilson Jr, Supervisor  
Robert M. Biesemeyer, Deputy Supervisor

Call to order

Approve Minutes: Sept, 26 Bi-Monthly Town Board meeting  
Budget Workshop #2

Privilege of the Floor:

Town Discussion of Old Business:

- Water Districts: Lead pipe Survey
- New trails update
- Adopt Fund Balance Policy

New Business:

- Cemetery Requests

Ongoing Local Law Process:

- Update on draft Local Law on STR regulations

Executive Session:

Budget Resolutions

Resolution to transfer funds:

Resolution to amend the 2023 budget:

Supervisor's Report:

Audit Bills:

Resolution to pay online bills

Resolution to audit Vouchers #2023- through #2023-

**Town of Keene**  
**Fund Balance Policy**  
Draft August 2022

The purpose of this policy is to enhance long-term financial planning and mitigate the risks associated with changes in revenues due to economic conditions the town faces. These policies also guide the allocation of sufficient monies for the purchase of capital equipment, construction of capital improvements, meeting match requirements for grants, and unanticipated expenditures that may occur. Unrestricted reserve balances may be utilized for emergency expenditures, annual budget shortfalls, or other approved projects.

The fund balance of the Town's General Fund, Highway Fund, Library Fund, and water district funds have been accumulated to provide stability and flexibility to respond to unexpected adversity and/or opportunities. The objective is to maintain an unrestricted fund balance suitable for the most efficient operation of each fund. Town finances will be managed so as to maintain balances of the various funds at levels sufficient to mitigate current and future risks, such as revenue shortfalls and unanticipated expenditures, ensure stable tax rates and user fees, and protect the Town's creditworthiness.

**General Fund: \$700,000**

The General Fund needs a significant fund balance to respond to emergencies and leverage grant opportunities.

**Highway Fund: \$100,000**

The Highway Fund needs a significant fund balance to respond to emergencies and leverage grant opportunities.

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**Water District #1: \$10,000**

**Water District #2: \$20,000**

The water districts need to be able to respond to emergencies and to leverage grant opportunities. This level of fund balance helps to protect residents in each district from fluctuating rates.

**Library Fund: \$5,000**

The library needs to meet unexpected expenses. Otherwise, it can rely on the General Fund for emergencies or capital projects.

**Unassigned Fund Balance**

The unassigned fund balance shall be any remaining amounts left within the above listed funds. At the end of the year, if there are unexpended funds above the fund balance limits set above, the Town will spend these funds in the following order:

1. If HRA is in deficit, use fund balance to replenish the HRA account.
2. On projects from the asset management plan or deposit into a reserve fund based on the asset management plan.
3. Apply to debt
4. Balance the following year budget

If, at the end of a fiscal year, the fund balance falls below the established amount for each fund, the Town Board shall take action necessary to restore the unreserved, undesignated fund balance through the budgetary process to acceptable levels within a reasonable time frame.

This policy will be reviewed annually during the organizational meeting in January. This policy has been adopted August xx, 2022.

**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 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 which regulations shall be consistent with the provisions and purposes of hereof.

C. This Local Law is adopted pursuant to the laws of the State of New York and the Town of Keene Strategic Plan: Adopted June 8, 2021.

**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 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 than 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 10:00 pm 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. 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 the property or dwelling unit is registered with the Occupancy Tax Program administered by the Essex County Treasurer's Office.

F. 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.

#### **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.

(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;

4. Such affidavit shall also certify the following:

(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;

(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 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 permit expiration date; and
  
  - (vii) a statement that the Short Term Rental permit may be revoked or suspended for violations.
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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 two (2) times the number of bedrooms that are in compliance with the New York State Building Code plus two (2) additional occupants.
- B. The maximum number of occupants for the Short Term Rental 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; and
  - (ii) dial 911 instructions 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; and
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(iv) Name, address, phone number, and email of the owner and the owner's local contact person; and

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. Recommend suspension or revocation of the permit to the Town Board. Upon recommendation to the Town Board, the Town Board after a hearing provided herein, may suspend the permit up to one (1) year or revoke the permit.

(iv) 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 one (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.



(v) 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 of this Local law.

(vi) Decisions of the Enforcement Officer made pursuant to §8(iii)(1) of this Local Law shall be provided to the owners of the Short Term Rentals 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. SUSPENSION AND REVOCATION HEARING PROCESS**

A. The Short Term Rental Hearing Board shall hear all recommendations for suspension or revocation by the Enforcement Officer. The Town Board shall constitute the Short Term Rental Hearing Board. The Short Term Rental Hearing Board shall have all of the powers and duties prescribed by law and may suspend the permit up to one (1) year or revoke the permit.

B. Notice of recommendation of suspension or revocation must be in writing and mailed , delivered or emailed to the primary contact person provided on the permit and filed with the Town Clerk. The Notice shall state the following:

i. Name and address of permit; and

ii. Violation alleged; and

iii. Date, Time and Place of Hearing.

C. The Short Term Rental Hearing Board shall hear all recommendations within Thirty (30) days of the Notice being filed with the Town Clerk. The SHORT-TERM RENTAL Hearing Board its sole discretion may adjourn the hearing date with written notice of the adjourned hearing being provided pursuant to §9(B) of this Local law. Notwithstanding, all hearings shall be held within one hundred eighty (180) days of the Notice of Recommendation for Suspension or Revocation being filed with the Town Clerk.

D. At the hearing, the Short Term Rental Hearing 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 SHORT-TERM RENTAL Hearing Board shall render its decision within 10 days of the hearing.

#### **SECTION 10. APPEALS PROCESS.**

A. The Short Term Rental L Appeals Board shall hear all appeals of decisions by the Enforcement Officer under this Local Law, other than suspension or revocations recommendations pursuant to Section 8(B)(iii)(3) of this Local Law. The Town Board shall constitute the Short Term Rental Appeals Board. The Short Term Rental 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 Short Term Rental 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 Short Term Rental Appeals Board shall endeavor to hear the appeal within 15 days of the request. At the hearing, the Short Term Rental 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 Short Term Rental Appeals Board shall render its decision within 10 days of the hearing.

#### **SECTION 11. 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 civil penalties:

(i) civil penalty of \$ 500 for a first violation;

(ii) civil penalty of \$1000 for a second violation, both of which violations were committed within a period of two (2) years;

(iii) civil penalty of \$1500 for a third violation, all of which violations were committed within a period of two (2) years.

(iv) 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 Short Term Rental permit shall be permanently revoked and not eligible for renewal.

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

D. 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 or any other court of competent jurisdiction. 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.

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

F. 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 attorney's fees.

## **SECTION 12. 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.