

MODEL LOCAL LAW
Permit to Operate a Short Term Rental Unit

1. PURPOSE:

- a. The purpose of Local Law #__ is to allow the homeowners of _____ (name municipality) to provide short-term rental units, while at the same time, to protect the public interest, and to preserve the rural beauty and residential character of the town/village/city. Homeowners may become authorized to operate a short term rental unit in a residential dwelling in the _____ zoning districts subject to the following conditions:

2. AUTHORIZATION:

- a. The _____ (governing body) authorizes the _____ (reviewing body) to issue permits to town/village/city homeowners to operate short term rental units according to the provisions of this ordinance. Applications for a permit to operate a short term rental unit shall be processed under the procedures set forth in this ordinance. The _____ (governing body) shall impose reasonable and appropriate conditions and safeguards to insure the public interest is not adversely affected, and to insure the operation of any short term rental unit is not in conflict with the _____ (comprehensive/master plan). Simultaneous site plan review shall be required for all short term rental applications.

3. FEE:

- a. A nonrefundable permit fee of \$___ for each short term rental unit for new permit applications and \$_____ per short term rental unit for permit renewals.

4. APPLICATION FORMS:

- a. Applications for a permit to operate a short term rental unit and site plan review shall be available from either the _____ (enforcing officer) or the town/village/city clerk. The application form(s) and the application fee shall be uniform for all applicants. Applicants must file a separate application and provide a separate application fee and obtain a separate permit for each dwelling unit to be used as a short term rental unit.

5. SITE PLAN REVIEW PROCESS:

- a. Upon submission of a site plan for review, the _____ (reviewing body) shall determine that all information required by this ordinance is depicted thereon or contained in accompanying documents. The _____ (reviewing body) shall notify the application of any additional information required, or that the site plan is complete within seven (7) days of its submission to him/her.
- b. Within 62 days of receipt of a completed site plan, the _____ (reviewing body) shall review same, and approve, approve with changes, or disapprove the site plan application. Failure of the _____ (reviewing body) to act within 62

days shall constitute approval unless the application and the _____(reviewing body) mutually agree to extend this time limit.

- c. Except as may be waived by the _____(reviewing body), all site plans required under this ordinance shall include the following information presented in drawn form or accompanied by a written text:
- i. A plat of the property showing approximate property boundaries and existing features, including, buildings, structures, parking spaces, streets, and neighboring buildings within _____ ft of the property line. Measure and show on the plot plan the exact distances from on site buildings to the property line(s).
 - ii. The location of all buildings, showing the floor area and location of vehicular and pedestrian entrances. Include a diagram of the interior of the unit, including dimensions and functions of each room, clearly indicating bedrooms and sleeping rooms.
 - iii. The proposed traffic circulation, parking, and pedestrian walks. Carefully measure the distances from proposed parking spaces to all buildings and property lines.
 - iv. Existing and any proposed landscaping, including visual screens from the road and neighbors
 - v. A brief description of each bedroom and sleeping room, including the furnishings, occupancy of each room and the methods of ingress and egress (examples: doors and windows)
 - vi. A description of adjacent land uses on all sides, including across the street. Indicated approximate distances between neighboring buildings and the property line.
- d. Prior to rendering a decision on the site plan applicaiton, the _____(reviewing body) shall review the site plan and supporting data and take into consideration the following:
- i. Harmonious relationship with existing adjacent uses
 - ii. Maximum safety of vehicular circulation between the site and the street.
 - iii. Adequacy of site traffic circulation and parking with particular attention to pedestrian safety
 - iv. Adequacy of landscaping and setbacks to achieve compatibility with, and protection of , adjacent residential uses
 - v. Factors deemed necessary by the _____(reviewing body) for the health, safety, and welfare of the public

The _____(reviewing body) may require changes or additions in relations to yards, driveways, and landscaping to ensure safety, to minimize traffic difficulties, and to safeguard adjacent properties. Should changes or additional facilities be required, final approval of the site plan shall be conditional upon satisfactory compliance by owner with the changes or additions.

- e. The _____(reviewing body) shall within _____ days of the meeting at which the site plan and supporting data were submitted, either approve, approve with conditions, or disapprove the site plan. The decision shall be in writing to both the applicant to the _____(enforcing officer).

6. PERMIT APPLICATION PROCESS:

- a. A permit application to operate a short term rental unit shall be submitted concurrent with submission of a site plan for review, the _____(reviewing body) shall determine that all information required by this ordinance is depicted thereon or contained in accompanying documents. The _____(reviewing body) shall notify the applicant of any additional information required, or that the applications is complete within seven days of its submission.
- b. The application form will include the following requirements:
- i. Contact information: The names, addresses and day/night telephone numbers of the owners and local managers must be included on the application.
 - ii. Fire and safety compliance: The applicant shall attach a copy of the current and valid certificate of compliance issued by the County Codes Officer to the application.
 - iii. Parking: The number of off street parking spaces will be indicated on the application. Wherever possible, enough off street parking spaces must be provided to accommodate the occupancy level of the dwelling unit, generally one parking space for each four people housed. The parking spaces must be situated so as to be in keeping with the neighborhood. Vehicles shall not be parked on front lawns. Where off street parking is not possible, street parking may be allowed in accordance with State DOT regulations.
 - iv. Occupancy: The occupancy level will be indicated on the application. Occupancy is limited to no more than nine (9) persons per dwelling unit unless further restricted by fire and safety codes. The Zoning Enforcement Officer may also limit the number of occupants to fewer than nine (9) in a specific dwelling unit based on the number, size, configuration, and furnishings of the bedrooms and/or sleeping rooms, and according to the provisions of state laws.
 - v. Water and septic: The source of the domestic water shall be stated on the application and the permit. The septic system must be functioning, and the type, size, and location of the septic system, if known, shall also be stated on the application. New and renewal permit applications completed for year 20__ shall require documentation that the septic system has been inspected and found to be working properly with in the last five years, and the type, size, and location of the system shall be stated on the application. All new permit applications after 20__ shall require documentation of inspection and proper functioning, as well as type, size, and location of the system.

- c. Prior to rendering a decision on the application for permit to operate a short term rental unit, the _____ (reviewing body) shall review the permit application and supporting data and take into consideration the following:
 - i. Harmonious relationship with existing adjacent uses
 - ii. The operation of the short term rental unit will not discourage the appropriate development and use of adjacent land and buildings or impair their value.
 - iii. The short term rental unit shall not conflict with the Comprehensive Plan.
 - iv. Operation of the short term rental unit shall not be more objectionable to nearby properties by reason of noise, traffic, or lights than would be the operation of any permitted use.
 - v. All State Environmental Quality Review requirements have been met.

- d. Conditions for denial of permit to operate a short term rental unit
 - i. The applicant failed to conform to permit conditions of the previous year.
 - ii. Tenants at the property were issued more than two noise ordinance violations during the previous summer rental season;
 - iii. Any other reasonable and rational factors or combination of factors (e.g. small lot, inadequate street parking, etc) that would cause a clearly detrimental impact on the neighborhood.
 - iv. If an application is denied, the applicant may correct any deficient conditions and reapply. The applicant may also apply to the _____ (governing body) for review and public hearing. A new inspection will be required if the applicant reapplies, and the application fee will be \$ _____. Whenever an application or a renewal application is denied, the _____ (reviewing body) will provide the applicant with a written list of deficient conditions, including a list of sustained unresolved legitimate complaints in the case of a denied renewal application.

- e. If the property has any existing violations of this town/village/city law or any other town/village/city or state law, no permit shall be issued until such violations are corrected. The _____ (reviewing body) shall within _____ days of the meeting at which application and supporting data were submitted, either approve, approve with conditions, or disapprove the permit to operate a short term rental unit. The decision shall be in writing to both the applicant to the _____ (enforcing officer).

7. INSPECTIONS:

- a. Each unit shall also be inspected by the Otsego County Codes Enforcement Officer to determine fire and safety code compliance. Proof of inspection in the form of the certificate of compliance must be included with the application form.

b.

8. GENERAL PERMIT STIPULATIONS:

- a. Copies of the permit must be displayed in the dwelling unit in a place where it is easily visible to the occupants and in a window where it is easily visible from the street.
- b. The permit to operate a short term rental unit in any given year will expire on December 31.
- c. Permits for operation of a Short Term Rental Unit may not be assigned, pledged, sold or otherwise transferred to any other persons, businesses, entities or properties. The permit belongs solely to the original applicant as it applies to a particular property, and shall remain in that applicant's name for the duration of the permit.
- d. All short term rental unit properties shall have posted on or about the inside of the front or main door of each dwelling unit a card listing emergency information. Such information shall include, but not be limited to: the name, address and phone number of the building owner, if local, or a local manager, and a second local contact person who will be available for problems/emergencies that may arise, and instructions on dialing 911 for emergency/fire/ambulance assistance. A local agent shall be able to respond in person within one hour.
- e. All applicants, both renewal and new, must notify, in writing, via regular first class mail, all property owners within a 200 foot radius of the proposed short term rental unit and must include in such notification the name and phone numbers of at least a total of two local contact persons who will be available for problems/emergency that may arise and who neighbors may contact in the event of complaints or problems with the short term rental unit. This will not serve as an official complaint.
- f. No person or persons may be housed separately and/or apart from the dwelling unit in any tent, trailer, camper, lean-to, recreation vehicle or other structure.

9. ENFORCEMENT:

- a. Enforcement of this town/village/city law is the duty of the _____ (enforcement officer), who may be assisted by any other agencies having jurisdiction.
- b. The _____ (enforcement officer) and the County Codes Enforcement Officer have the right of entry for inspection to determine compliance with the conditions of the permit, with reasonable notice. The _____ (enforcement officer) shall have the right of entry for unannounced inspection only when investigating a signed complaint.
- c. The _____ (governing body) may, after a public hearing, terminate an operating permit during the period for which it was issued if the property or owner is found to be in material breach of the terms and conditions of the permit or other conditions of this law.
- d. Any person, entity, business or corporation found to be providing short term rental units without a permit issued by the _____ (name municipality) shall be determined to be in violation of this law.

10. COMPLAINTS:

- a. Complaints regarding the operation of a short term rental unit may be received by the _____ (enforcement officer) or the town/village/city Clerk. Complaints shall be forwarded to the owners and their local manager at their addresses of record by the _____ (enforcement officer). All correspondence from the owners and their agents shall be kept and maintained along with the permit.
- b. A complaint of violation may be made by any aggrieved person or town/village/city Official, including the _____ (enforcement officer). Such complaints shall include the following information:
 - i. The name, address, telephone number of the complainant.
 - ii. The address of the offending property. The name, and day/night telephone numbers of the owner and local manager can be supplied by the _____ (enforcement officer) if they are not known by the complainant.
 - iii. A description of the nature of the alleged violation including reference to the provisions of the laws alleged to be violated.
 - iv. The date(s) and time(s) of the alleged violations.
- c. Upon receipt of a complaint of violation, the _____ (enforcement officer) shall investigate to determine the presence of a violation, and upon finding to his/her satisfaction that a violation was or is currently occurring, he/she shall issue to the landowner and the local manager a notice detailing the alleged violation(s) as determined by the _____ (enforcement officer). Such notice shall also specify what corrective action is required of the property owner, and the date by which action shall be taken.
- d. Notices required by this section shall be issued by the _____ (enforcement officer) either by personal service to the landowner and the local manager or by certified mail to the address of the owner and local manager as shown on the permit application.
- e. If the landowner does not comply with corrective action by the date given by the _____ (enforcement officer), the town/village/city may initiate procedures to revoke the permit, or the town/village/city may begin a criminal action against the landowner.
- f. Any time the _____ (enforcement officer) deems it to be appropriate, he/she shall refer to the _____ (governing body) any landowners whom he/she believes to be in violation of this Local Law. The _____ (governing body) shall determine whether the permit in question shall be revoked. A revocation of a permit requires a public hearing by the _____ (governing body). The referral to the _____ (governing body) may be done in addition to all other penalties allowed in Section 6b. of this Local Law.

11. VIOLATIONS:

- a. The _____ (enforcement officer) shall issue a ticket to any permit holder who, after having been investigated for and notified of non-compliance, fails to become compliant with this Local Law by the end of the time period set by the _____ (enforcement officer).

- b. A violation of this local law is an offense punishable by a fine not exceeding _____ dollars or imprisonment for a period not to exceed _____ months, or both, for conviction of a first time offense. Conviction of a second offense committed within a period of _____ years of the first offense, is punishable by a fine not less than _____ dollars and not more than s _____ dollars, or imprisonment for a period not to exceed _____ months, or both. Conviction of a third offense committed within a period of _____ years of the first offense, is punishable by a fine not less than _____ and not more than _____, or imprisonment not to exceed _____ months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers, generally, violations of this law or any of its provisions shall be considered an unclassified misdemeanor. Under Penal Law Section 55-10(2).

12. BEGINNING EFFECTIVE DATE:

- a. This local Law shall be in effect beginning _____(date). Applications for permits will be accepted and processed beginning _____(date).

13. DEFINITIONS

Bedroom: A room in a dwelling unit specifically furnished for sleeping. The room must have at least one operable window and must be separated from other rooms by a door.

Legitimate Complaint: A complaint lodged against a Short Term Rental Unit based on a specific item in this Local Law or in the town/village/city's Land Use Law or in State Law. Examples of legitimate complaints: "There are 12 people housed in the dwelling when the maximum allowed is only nine."(this Law). "The noise from the boom box was so loud last night that it rattled my windows."(Land Use Law). "The occupants were shooting off fireworks and bottle rockets."(State Law). Examples of nuisance (not legitimate) complaints: "I'm uncomfortable having strangers in the neighborhood." and "Their baby kept me up all night."(these are not prohibited by Local or State Laws).

Local manager: The person specifically named on the application and permit who is responsible for the day to day operation of the Short Term Rental Unit, and who maybe contacted, day or night, if there is a problem at the Unit. The local manager may be the owner or an agent of the owner.

Non-resident owners: owners that reside outside the following zip codes:

Short Term Rental Unit: A dwelling unit in any of the residential zoning districts which is rented or leased to individuals or families who occupy overnight accommodations for compensation for a period of less than 30 days. Occupancy is limited to no more than nine (9) persons per dwelling unit. Any dwelling which is rented or leased for a period of thirty days or more to individuals or families who then allow others to occupy the dwelling for periods of less than thirty days shall be considered a short term rental unit and will require a permit for this use. Motels and hotels are excluded from this definition.

Sleeping Room: An interior room other than a bedroom having at least one operable window and furnishings that may serve to afford sleep to a person or persons, however, sleep shall not be the primary function of the room. Examples include a living room, family room, den or great room furnished with a futon or convertible couch.

14. SAVING CLAUSE

- a. If any clause, sentence, paragraph, section or part of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.