

Short-Term Rental Code Amendment Proposal Revised Final Draft, June 2021

Purpose. This zoning for Short-Term Rentals is to control and regulate the use of short-term rentals within the Town of Canadice. The provisions of this section are intended to preserve and protect the health, character, safety, and general welfare of the residential neighborhoods and rural areas where such uses may exist, and to mitigate the adverse effects of short-term rentals.

Definitions. As used in this subsection, the following definitions shall have the meanings indicated:

1. Short-term rental (STR): A dwelling unit or part thereof rented for compensation of lodging by individuals for a period of not more than thirty-one (31) consecutive days. This may include campgrounds, tent sites or tent platforms and other temporary structures on the parcel.
2. For the purpose of this Chapter, the term “short term rental” shall not include a bed-and-breakfast, boarding/lodging house, hotel or motel.
3. 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 a dwelling unit is being used as a short-term rental:
 - a. All or a part of the dwelling unit is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away, VRBO and the like for a period of less than 31 days; and/or
 - b. All or a part of the dwelling unit is offered for lease in any medium for a period of 31 days or less.
4. The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the dwelling unit is not a short-term rental.
5. Ongoing month-to-month tenancies are not short-term rentals.

Required Permit.

1. An owner shall obtain a revocable short-term rental permit prior to any dwelling unit being used for short-term rental purposes.
2. A short-term rental permit shall be valid for two (2) years and must be renewed upon expiration as long as the unit is used as a short-term rental.

3. The short-term rental permit is not transferable to a new owner. The new owner of property subject to a short-term rental permit must file a new application.
4. Notwithstanding the foregoing, those properties with short-term rental commitments existing on the date this section takes effect shall be permitted to honor such existing commitments and continue to make commitments for short-term rentals, but must apply, within six months (180) days of the effective date, for all future short-term rental commitments. In the event such application is denied, all commitments must be cancelled.

Short-term Rental Permit Application Requirements.

Applications for a short-term rental permit may be obtained at the Town of Canadice Code Enforcement Office. A completed application for or renewal of a short-term rental permit shall be 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, and contain at least the following:

1. The signatures of all owners or their designated agent.
2. Permission for a property inspection by the Code Enforcement Officer to ensure all requirements and standards contained herein this Local Law are being complied with.
3. An acknowledgement of present and ongoing compliance with the Short-term Rental Standards as defined in this Section, including, but not limited to, the demonstration of adequate off-road parking spaces for the dwelling unit with proposed short-term rental.
4. A list of all the existing property owners and/or management agencies of the dwelling unit that is or contains the short-term rental, including names, addresses, telephone numbers and email addresses of each.
5. 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. The contact person may be an owner or an agent designated by the owner(s) to serve as a contact person and shall respond to any correspondence or concern from the Town Code Enforcement Officer within 24 hours.
7. An accurate suitable floor plan for each level of the dwelling that can be occupied measuring at least 8.5 inch by 11 inch, drawn to scale and certified by the applicant. The floor plan need not be prepared by a professional, but must include the following:

- A. The location of buildings and required parking.
- B. Basement, to include house utilities, all rooms including bedrooms, windows and exits.
- C. First floor - all rooms with exits, windows, bedrooms and any heating/cooling units.
- D. Second floor - all rooms including exits, windows, bedrooms and any heating/cooling units.
- E. Attic, if any, with all rooms including exits, windows, bedrooms and any heating/cooling units.

8. 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 together with others.

All completed applications are subject to a Floor Plan Review and Approval by the Code Enforcement Officer.

Owners wishing to apply for a variance to sleeping capacity, parking capacity, or other standards stated below must petition to the Zoning Board of Appeals. The variance will be reviewed by the Zoning Board of Appeals in consultation with the Code Enforcement Officer.

Short-term Rental Standards.

All short-term rentals shall meet the following standards:

1. Property Requirements

- A. Property must comply and meet all current NYS Uniform Building Codes.
- B. 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.
- C. 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.

D. ABC Fire Extinguishers:

- a. There shall be an ABC fire extinguisher on each floor and in the kitchen.
 - b. Fire extinguishers shall be inspected prior to a renter occupying the residence and no less than monthly by the permit holder(s) to ensure each contains a full charge. A record of the date inspected initialed by the permit holder shall be maintained and made available to the Code Enforcement Officer upon request.
- 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 in good operating condition, labeled, unobstructed and shall be visible for the Code Enforcement Officer during the permitting process. Any defects found shall be corrected prior to permit issuance.
- G. All fireplaces shall comply with all applicable laws 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 be based on the septic inspection report, if applicable; or
- J. Maximum occupancy for each short-term rental unit will not exceed two (2) people per bedroom shown on the floor plan included with the application and 2 people per minimum full size convertible sleeping accommodation furniture (i.e. futon, hide-a-bed) also identified on the floor plan and the maximum occupancy of any dwelling unit that is or contains a short-term rental shall not exceed twelve (12) people total, based on the calculation established by the code enforcement officer during the permitting process counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.
- K. 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 is or contains a short-term rental shall not exceed twelve (12) people total, based on the calculation of two (2) people

per bedroom and counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.

- L. The septic system must meet all state requirements, if any.
- M. Evidence that the septic system has been pumped within the past four years and proof of no defects found by a qualified septic disposal firm. Once a short-term rental permit is issued the septic system must be pumped at least every four years and evidence maintained with the Code Enforcement Officer.
- N. The water supply must meet all state requirements, if any.
- O. One sign identifying the Short-Term Rental shall be allowed of up to six square feet on a side, and the sign may be double-sided but not internally lighted. The location, design and dimensions of the sign shall be reviewed and approved by the Code Enforcement Officer prior to issuance of the permit. If signage is desired after a permit has been issued the Short Term Rental permit holder must submit a request for review and approval, to the Code Enforcement Officer, prior to installing the signage. If the property has vehicular access on more than one road, the Code Enforcement Officer may allow one sign fronting on each road.

2. Insurance and Registration Standards

- A. 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 and maintain such insurance throughout the term of the short-term rental permit.

3. 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 around pick-up time.

4. Rental Contract. All applicants and permit holders must have a rental contract, which includes the following policies/statements:

- A. Maximum Property Occupancy
- B. Maximum on Site Parking provided
- C. Good Neighbor Statement stating:
 - a. That the short-term rental is in a residential area in the Town of Canadice

and that renters should be conscious of the residents in neighboring homes;

- b. A statement that guests are requested observe quiet hours from 11pm – 7am to be considerate of neighbors.
- c. All renters will be subject to New York Penal Law ss 240.20 or any successor statute regarding disorderly conduct.
- d. A statement that littering is illegal; and
- e. A statement that all fires must be attended.

D. A copy of the rental contract in form along with all items in A-C/e of this section shall be clearly posted in the rental dwelling.

Procedure upon filing Application:

1. Short-term rental permit applications shall be filed with the Town of Canadice Code Enforcement Officer with all supporting documentations and the nonrefundable permit fee. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:

- A. Application and documentation required by this Section was not included or the full permit fee was not paid.
- B. If the Town of Canadice issued a short-term rental permit to any of the owners needing to sign the short-term rental permit application and any of such owners had a short-term rental permit revoked within the previous year.

2. Upon receipt of a completed permit application, adjacent property owners of the short-term rental will be notified of the application by the Town of Canadice via post card or e-mail.

3. Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this Section and the application fee, the Code Enforcement Officer shall have thirty (30) days to conduct a property inspection to certify and approve that all short-term rental requirements have been met.

4. Upon approval of the Floor Plan Review/Short-term Rental Application by the Code

Enforcement Officer a short-term rental permit will be issued. Short-term rental permits issued pursuant to this Section shall state the following:

- A. The names, addresses and phone numbers of each 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 unit;
- C. Identification of the number of and location of parking spaces available;
- D. Any conditions imposed by the Zoning Board of Appeals and/or Code Enforcement Officer.

Conformity and Display of Permit.

Short-term rental permit is subject to continued compliance with the requirements of these regulations.

1. If the Code Enforcement Officer has probable cause to believe that the home owner is not in compliance with the provisions of this Law, the Code Enforcement Officer may request permission from an owner of the short-term rental permit to come onto the property and to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this Section, which permission the owners of the short-term rental are under no obligation to give. Alternatively, the Code Enforcement Officer may petition a court of competent jurisdiction for a search warrant to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to revoke the permit.
2. The short-term rental permit, contract form and rules shall be prominently displayed inside and near the front entrance of the short-term rental; and
3. The owners must ensure that current and accurate information is provided to the Code Enforcement Officer and that they notify the Code Enforcement Officer immediately of any change in the information displayed on the permit. If, based on such changes, the Code Enforcement Officer issues an amended short-term rental permit, the owners must immediately post the amended permit inside and near the front entrance of the short-term rental.

4. The short-term rental permit holder must conspicuously display the short-term rental permit number in all advertisements for the applicable short-term rental.

Compliance, Hearings and Penalties.

1. Violations of this Section or of any short-term rental permit issued pursuant to this Section shall be subject to enforcement and penalties prescribed in this Chapter, as amended.

2. If 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 Section, the Code Enforcement Officer shall properly record such complaint and immediately investigate the report thereon. If the Code Enforcement Officer determines there is a violation or violations of this code, the owners shall be notified in writing by first class mail and certified return receipt mail of said violations the Code Enforcement Officer 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. Require corrective action that remedies the violation(s). The corrective action must be completed within 30 days of notice from the Code Enforcement Officer or the owner risks loss of the Short-Term Rental permit.

D. Issue a court appearance ticket for violation of a town law.

E. 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 for subject property or any others they may be a party of.

Application for Renewal of Permit.

1. Application for renewal of the short-term rental permit is due thirty (30) days prior to expiration and requires payment of renewal fee.

2. At the time of application for renewal, landlord, owner, or designated agent, if applicable, must present the previous permit for short-term rental.

3. The property must have undergone an inspection performed by the Code Officer, and all violations must be remedied prior to renewal of a permit for short-term rental.
4. Upon completion of the above items Code Enforcement Officer will issue a two (2) year permit renewal.

Grounds for Suspension or Revocation of Permit.

1. The Code Enforcement Officer may immediately suspend a short-term rental permit based on failure to correct a permit violation. The Code Enforcement Officer may then revoke a short-term rental permit based upon, among others, any of the following grounds:
 - A. Applicant has falsified or failed to provide information in the application for a permit, application for permit renewal, registration of property or registration of property owner.
 - B. Applicant violated any provision of this section during the term of the short-term rental permit.
 - C. Applicant or any tenant violated any provisions of the Code of the Town of Canadice.
 - 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.
 - F. Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

Survivability.

If any clause, sentence, paragraph, section or part of this local 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 ordered.

This local law shall take effect based on input from the Town Board.

DRAFT