

Section 9.18 Short-Term Rentals

(A) Purpose

The purpose of this section is to authorize and regulate the establishment and operation of short-term rental properties in the Village of Allegany and to ensure the preservation of the character, integrity, and property values of the surrounding areas within which such properties are located and maintained. The Village needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property owner, surrounding neighbors and emergency responders. The character of residential zoning districts must also be preserved.

(B) Definitions

- (1) *Bedroom.* To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in the current Residential Code of New York State (RCNYS).
- (2) *Local Agent.* An individual or legal entity designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the Village; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal papers relating to the unit on the owner's behalf. The local agent must live or maintain a physical place of business within 25 miles of the rental unit used for short-term rentals. A property owner who meets these criteria may be the local agent.
- (3) *Short-Term Rental Unit.* A dwelling or portion thereof rented for a term of less than one month.
- (4) *Short-Term Rental Permit.* A written document issued by the Village indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental in accordance with this chapter. A short-term rental permit shall be valid for one year from the date of the inspection that found the rental unit in compliance, absent newly or later detected violations of the Village's property maintenance code, fire code, this chapter or other applicable laws, rules or regulations, or a revocation of the permit pursuant to this chapter within that time, and the expiration date shall be shown on the permit. A permit shall be valid for one year from date of issuance unless terminated due to a violation and shall be renewed annually.

(C) Permit Applications

- (1) *Permits required.* All dwelling units used for short-term rentals must be registered with and have a short-term rental permit issued by the Code Enforcement Office of the Village. The short-term rental of a dwelling without a permit is prohibited.

(2) *Application.* To apply for a short-term rental permit, the applicant shall:

- a. Provide and/or certify as true the following on a form provided by the Village:
 - i. Name, address, email address, and telephone numbers (local and cell phone) of the applicant and any agent for the applicant.
 - ii. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.
 - iii. The number of short-term rental units in the building, if more than one.
 - iv. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit would require 1 parking space per bedroom rented.
 - v. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner or local agent will check on those devices at least every 90 days.
 - vi. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
 - vii. A statement certifying that the owner consents to inspections by the Village and will make the dwelling unit available to inspections upon request.
 - viii. A Certificate of Liability Insurance issued by the insurance company listing the Village of Allegany as the Certificate Holder must be provided.
 - ix. A copy of the Certificate of Authority issued by the Cattaraugus County Treasurer's Office to collect an Occupancy Tax must be provided.
 - x. Such other information as the Village requests.
- b. Sign the application form and provide the signature of the local agent.
- c. Pay an administrative fee for review of the application and inspection of the property.
- d. Submit the property to annual inspection for compliance with applicable codes and Laws. Should a premises fail inspection, the initial re-inspection shall be free of charge. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void.

(3) *Changes in information.* The applicant shall notify the Village in writing within 30 days of any change in the information provided on the application form. An owner of

a short-term rental unit shall notify the Village in writing within ten days of any change in the designated local agent.

- (4) *Procedure.* Submit the application to the Code Enforcement Officer, who shall refer any application for a Short-Term Rental Unit located in an R2 or R3 to the Planning Board to approve/disapprove by determining the suitability of the Short-Term Rental Unit at the proposed location. Applications for a Short-Term Rental Unit located in a B1, B2, or B3 shall be subject to approval by the Code Enforcement Officer. Short Term Rental Units are not permitted in R1 and I1 zoning districts.

(D) Short-Term Rental Regulations.

- (1) *Advertising regulations.* No short-term rental unit may be occupied or advertised for rent unless the Village has issued a valid short-term rental unit permit pursuant to this chapter. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section.
- (2) *Local agent required.* All short-term rental units must have a designated local agent. If the owner of a short-term rental unit does not qualify as a local agent, the owner shall designate a local agent and authorize the agent in writing to act as the owner's agent for any acts required of the owner or the owner's agent under this article.
- (3) *Maximum occupancy.* Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated by the Code Enforcement Officer in accordance with the current Property Maintenance Code of New York State (PMCNYS). The owner, local agent, and occupants shall be in violation if the number of occupants in the short-term rental unit exceeds the maximum occupancy stated on the permit. The maximum occupancy shall be stated in the lease or other rental agreement.
- (4) *Permit transfers.* A short-term rental unit permit may not be transferred to a new owner of a short-term rental unit.
- (5) *Applicable codes.* Compliance with applicable zoning, construction, fire, and property maintenance codes of New York State shall be a condition of all rental unit permits. Violations of any of those codes shall also be a violation of this local law.
- (6) *Basement/Attic regulations.* No basement or attic space can be used for a bedroom unless it has an egress window approved by the Village Code Enforcement Office and found in compliance with local and state code requirements.
- (7) *Curbside refuse pickup.* The owner must make provisions to have refuse picked up (curbside) at least once per week when the short-term rental unit is being rented.
- (8) *Liability Insurance.* The owner of the short-term rental shall have adequate liability insurance coverage throughout the duration of operation as a short-term rental unit.
- (9) *Excluded districts.* Short-term rental units are not permitted in the following districts: R2 and R3 without prior approval granted by the Planning Board and not at all in R1 and I1.

(E) Inspections.

(1) *Scheduling.* Upon written notice from the Village, it shall be the owner's responsibility to schedule and allow the Village's inspection of the short-term rental unit. Inspections shall occur during the Village's regular business hours, unless the Village agrees to other arrangements, and all fees shall be paid prior to the inspection.

(2) *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner shall be provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.

(3) *Additional inspections.* The Village may conduct additional inspections as it deems necessary, upon reasonable notice to the owner or agent, such as when:

a. A complaint is filed with the Village; or

b. The Village otherwise has reasonable cause to believe a short-term rental unit is in violation of any Village Law.

(4) *Changes in conditions following inspection.* The owner shall notify the Village in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the Village.

(F) Safety Equipment.

(1) *Smoke detectors.* The owner of each short-term rental unit shall be responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the NYS Residential Building Code. Smoke detectors/alarms shall be installed in the following locations:

a. In each sleeping room;

b. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and

c. On each additional story of the rental unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.

(2) *Carbon monoxide detectors.* The owner of each short-term rental unit shall be responsible for the installation of a carbon monoxide detectors in each rental unit. All carbon monoxide detectors shall be according to the NYS Fire Code.

(3) *Fire extinguisher.* The owner of each short-term rental unit shall be responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.

(4) *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section. **(G) Penalties for Offenses.**

(1) The Code Enforcement Officer shall pursue abatement of the failure to comply with any provision of this section as a violation in accordance with Article X of this local law.

(2) *Permit Revocation.*

a. The Village may revoke the short-term rental permit for any short-term rental which is the site of at least three (3) separate incidents (occurring on three separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or a court's determination of responsibility or guilt by the owner or any renter for a violation of one or more of the following:

- i. any provision of this Law; ii. the Village noise and nuisance Law; and
- iii. any violation of the zoning Law or any permit or approval issued pursuant to the zoning Law.

b. Upon a determination by the Village that the short-term rental permit is subject to revocation, the Village shall issue a notice to the property owner and the local agent stating that the Village intends to revoke the short-term rental permit. The notice shall inform the owner and local agent of a right to a hearing to show cause as to why the short-term rental permit should not be revoked, if a hearing is requested within fourteen (14) days of the service of the notice. If a hearing is timely requested, the Village shall schedule the hearing before the Planning Board. The Village shall notify the owner and the local agent in writing of a time and place for that hearing. At the hearing, the owner and local agent may present evidence that the requirements for revocation provided are not satisfied, or that the property owner and local agent should not be held responsible for one or more of the three (3) requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as:

- i. the violation was committed by a non-renter and the renter(s) attempted to prevent or halt the violation; ii. the violation resulted from an act of God; or
- iii. other circumstances that the owner or the owner's agent could not reasonably anticipate and prevent, and could not reasonably control.

- c. Upon revocation of a permit, a new permit for the address will not be issued for a period of eighteen (18) months, and the dwelling cannot be used for short-term rentals until a new permit is obtained.