

TOWN OF WARWICK
ADOPTED LOCAL LAW 2 OF 2023
AMENDING THE CODE OF THE TOWN OF WARWICK

A Local Law amending Chapter 129 of the Code of the Town of Warwick entitled “Short-term Rental Property” by replacing the entire Chapter with the following, as more fully set forth below:

Be it enacted by the Town Board of the Town of Warwick, Orange County, New York, as follows:

Section 1 –TOWN CODE AMENDED:

Article I Registration; Rental Permits

§ 129-1 Purpose.

The Town Board of the Town of Warwick does hereby establish regulations for the enactment, enforcement and administration of a rental permit requirement for all short-term rental units within the corporate boundaries of the Town of Warwick and for the periodic registration of all landlords and short-term rental property owners for the purpose of regulating short-term rental property conditions and for maintaining an inventory of available short-term rental housing.

§ 129-2 Definitions.

[Amended 2-24-2022 by L.L. No. 1-2022]

As used in this article, the following terms shall have the meanings indicated:

ABSENTEE LANDLORD

Any natural person owning real property in fee simple who does not reside on the rental property and/or who resides outside the designated boundaries of Orange County as those boundaries may be defined at the time of regular, periodic property registration. All absentee landlords must be natural persons and not corporations, limited liability companies or other similar entities.

BUILDING INSPECTOR

The Building Inspector of the Town of Warwick or such person as appointed by the Town Board to enforce of Chapter 67, Unsafe Buildings, and this article.

[Amended 2-24-2022 by L.L. No. 1-2022]

HOUSING OR DWELLING UNIT

Any single residential living space which is capable of housing one separate household, whether a detached single-family structure or building or part of a multihousehold structure or building.

[Amended 2-24-2022 by L.L. No. 1-2022]

IMMEDIATE FAMILY

The immediate family of the owner of a housing unit consists of the owner's spouse, children, parents, grandparents or grandchildren.

LANDLORD

Any natural person owning real property in fee simple or resident agent who offers a housing unit for occupancy to persons other than members of his immediate family in exchange for a fee or compensation, whether monetary or otherwise. All landlords must be natural persons and not corporations, limited liability companies or other similar entities.

RESIDENT AGENT

A natural person designated by a landlord or absentee landlord who resides within the designated boundaries of Orange County as defined at the time of periodic property registration. All resident agents must be natural persons and not corporations, limited liability companies or other similar entities. A Resident Agent must be able to respond to the Short Term Rental within one (1) hour of notification by the Town.

SHORT-TERM RENTAL PERMIT

A permit issued by the Town of Warwick stating that the referenced structure or unit conforms to the standards of Chapter **82**, Fire Prevention and Building Code Administration, and that occupancy of that structure or unit is permitted for residential use. Any special circumstances or conditions under which occupancy is permitted may be specified on that permit.

SHORT-TERM RENTAL PROPERTY

Any housing or dwelling unit(s) which are occupied by persons other than the owner or his immediate family for which a fee or compensation, monetary or otherwise, is received by the owner or landlord in exchange for such occupancy for a period of less than 30 days, which shall include but not be limited to rentals provided by such companies as Air BnB and VBRO. Month to month tenancies are not considered short- term rental properties.

SUBSTANDARD

Any deficiency in a structure or housing unit that does not meet the standards of Chapter **82**, Fire Prevention and Building Code Administration, as amended.

§ 129-3 Short-term rental property registration and permit requirement.

- A. All landlords and resident agents must register and obtain a short-term rental permit from the Town of Warwick within 30 days of the effective date of this article and/or before any housing or dwelling unit is utilized as a short-term rental property. Initial registration will begin within 30 days after this article becomes effective. It is the responsibility of the landlord or resident agent to

register any short-term rental property as required in this article, and failure to do so shall constitute a violation of these regulations and is subject to the penalties set forth herein. All absentee landlords must have a resident agent for all short-term rental properties. Any substandard condition identified during an annual inspection must be corrected by the landlord before a short-term rental permit shall be issued.

B. Presumption of a Dwelling Unit as a Short-term Rental

1. The presence of the following shall create a presumption that all or part of the property is being used as a Short-term Rental:

(a) All or part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO, for a period of less than 31 days; and/or

(b) All or part of the property is offered for lease for a period of 31 days or less through any form of advertising.

2. The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the premises is not operated as a Short-term Rental.

C. The registration for a short-term rental permit shall be on a form approved by the Building Inspector in accordance with the provisions of this section, and contain a minimum the following information:

(1) Address of the rental unit;

(2) The number of rental units in each building;

(3) The number of conventional bedrooms in the dwelling;

(4) The applicable overnight and daytime occupancy limit of the unit;

(5) The types and placement of any fire protection systems located in each building;

(6) The number and location of all exits;

(7) An accurate suitable floor plan for each level of the dwelling unit that can be occupied measuring 8.5 inches by 11 inches, drawn to scale and certified by the applicant. The floor plan does not have to be prepared by a professional but must include the following:

(a) The location of building

(b) The location of required parking.

(c) Basement- location of house utilities and all rooms including bedrooms, bathrooms, windows, exits and heating /cooling units.

- (d) First Floor - all rooms including bedrooms, bathrooms, windows, exits and heating /cooling units.;
 - (e) Second Floor- all rooms including bedrooms, bathrooms, windows, exits and heating /cooling units.
 - (f) Attic (if any) - all rooms including bedrooms, bathroom, windows, exits and heating /cooling units.
- (8) A listing of each manner or mechanism through which the rental unit is and/or will be listed for rental; and
 - (9) The fully completed form must be notarized;
 - (10) Written proof that any septic system has been maintained and meets the requirements of Town Code § **100-9B**; no property equipped with a cesspool may be used for short-term rental;
 - (11) Written proof of liability insurance for the property with policy limits in an amount of no less than \$1,000,000;
 - (12) Name, social security number, telephone number, e-mail address, mailing address and physical address of the landlord and registered agent (a post office box is acceptable);
 - (13) If the owner is an association, partnership, limited liability partnership, corporation, joint tenancy, tenancy in common, tenancy by the entirety, or other entity, the name of each and every owner, officer, partner or general interest partner, and the name of their interest shall also be disclosed;
 - (14) If the owner is a business entity, the tax identification number, and the name, telephone number, e-mail address, mailing address and physical address of the owner's agent;
 - (15) Acknowledgment of receipt and inspection of the Code of the Town of Warwick Chapter **129**; and
 - (16) The fully completed form must be notarized.
 - (17) Sample Rental contract must be provided which includes the following:
 - (a) Maximum property occupancy;
 - (b) Maximum on-site parking provided; and
 - (c) Good Neighbor Statement stating:
 - (1) The Short-term Rental is in a residential area of the Town of Warwick and renters should be considerate of residents in neighboring homes.

(2) Guests must observe quiet hours from 10 p.m. – 7 a.m.

(3) All renters will be subject to New York Penal Code section 240.20 or any successor statute regarding disorderly conduct.

(4) Littering is illegal

- D. All registered agents shall accept service of process on behalf of the landlord of all notices given pursuant to this article. If a resident agent moves from Orange County, the landlord must immediately designate a new resident agent in writing to the Town for the duration of the period of any short-term rental permit, and the failure to do so shall render the permit null and void.
- E. Leaseholders and tenants may not engage in short-term rentals.
- F. All short-term rental permits shall expire one year after the date of issuance, unless sooner revoked.
- G. No more than two short-term rental permits will be issued to a landlord or absentee landlord. **[Added 2-24-2022 by L.L. No. 1-2022]**
- H. Short-Term Rental permits are subject to continued compliance with the requirements of these regulations.

(1) If the Code Enforcement Officer has probable cause to believe that the homeowner 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 enter the premises and to conduct an inspection of the Short-Term Rental property for purposes of ensuring compliance with this Section. If the property owner refuses to permit the Code Enforcement Officer to inspect the property, the permit will be revoked. 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, maximum occupancy limit, maximum parking, contact form and standards shall be prominently displayed inside and near the front entrance of the Short-Term rental; and

(3) The Short-Term Rental permit holder shall 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

§ 129-4 Application for renewal of permit.

- A. Application for renewal of the short-term rental permit is due 30 days prior to its expiration and requires payment of the renewal fee.
- B. At the time of application for renewal, the landlord and/or registered agent, if applicable, must present the expiring permit.
- C. The renewal shall only be renewed after reinspection of the subject premises by the Building Inspector pursuant to § 129-5, and any reported violations must be remedied prior to the renewal of a short-term rental permit.

§ 129-5 Inspections of short-term rental units.

- A. Inspections of all short-term rental properties shall be conducted on an annual basis to determine compliance with Chapter 67 and Chapter 82.
- B. All inspections finding substandard conditions will be subject to the procedures set forth for violation of Chapter 67, Unsafe Buildings, as amended.
- C. Inspections shall be conducted and work descriptions shall be compiled and issued by the Building Inspector.
- D. The Building Inspector will be responsible for arranging for the inspection of rental units and for initiating any other appropriate action under these regulations. The Building Inspector will give special consideration to any request that inspections be conducted during nonbusiness hours for the convenience of the tenant(s). In the absence of such a request, the inspections will be conducted during normal business hours as defined by the town business hours in force at the time.
- E. The annual inspection fee is \$50 for each short-term rental property. If the short-term rental property fails, there shall be a fee of \$25 for each subsequent reinspection.

§ 129-6 Grounds for denial of application for permit or renewal permit.

The Building Inspector may deny an application for a short-term rental permit or renewal permit based upon, among others, any of the following grounds:

- A. The application does not fully comply with the provisions of this article.
- B. The applicant has falsified or failed to provide information in the application for a permit, registration of property, or registration of landlord or absentee landlord. **[Amended 2-24-2022 by L.L. No. 1-2022]**
- C. The applicant had been issued a short-term rental permit, which was in effect in any part of the calendar year immediately preceding the date of application, and the applicant falsified or failed to provide information in the application for a permit, registration of property, or registration of landlord or absentee landlord, upon which such short-term rental permit had been issued. **[Amended 2-24-2022 by L.L. No.**

1-2022]

- D. The applicant violated any provision of this article during the calendar year immediately preceding the date of application or during the calendar year in which the application was made.
- E. The applicant has had a short-term rental permit revoked for cause during the calendar year immediately preceding the date of application or during the calendar year in which the application was made.
- F. The property for which a short-term rental permit is sought was used or occupied in violation of this article during the calendar year immediately preceding the date of application or during the calendar year in which the application was made.
- G. The property for which a short-term rental permit is sought is not equipped with a single-station smoke-detecting alarm device and carbon monoxide detector device, or devices, in accordance with New York State standards.
- H. The property for which a short-term rental permit is sought does not possess adequate exits in accordance with New York State standards.

§ 129-7 Grounds for revocation of permit.

- A. The Building Inspector may serve a notice of revocation of a short-term rental permit based upon, among others, any of the following grounds:
 - (1) The landlord, absentee landlord or resident agent applicant has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of property, or registration of landlord or absentee landlord. **[Amended 2-24-2022 by L.L. No. 1-2022]**
 - (2) The applicant violated any provision of this article during the term of the short-term rental permit.
 - (3) The applicant or any tenant violated any provision of the Code of the Town of Warwick.
 - (4) The 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.
 - (5) Any conduct on the premises which is unreasonable under the circumstances and which disturbs the health, safety and welfare of the neighborhood or which otherwise creates a public nuisance.
 - (6) The property for which renewal of a short-term rental permit is sought is not equipped with a single-station smoke-detecting alarm device and carbon monoxide detector device, or devices, in accordance with New York State standards.

- (7) The property for which renewal of a short-term rental permit is sought does not possess adequate exits in accordance with New York State standards.
- (8) Advertising or listing a Short-term Rental without a valid permit or registration, or without including the permit or registration number on the advertising or listing, or advertising the Short-term Rental for a greater occupancy than permitted.
- (9) Operation of a Short-term Rental without a valid permit or for a greater occupancy than permitted.
- (10) Failure to display an annual valid permit or the required safety/egress plan, waste management plan, copy of the Noise ordinance (Chapter 100A) and a property map.
- (11) Violation of Chapter 100 A. Noise
 - B. Revocation notices shall be in writing, shall identify the property or premises, shall specify the violation or remedial action to be taken and shall provide that said violation must be corrected within 10 days from the receipt of said violation notice unless said ten-day period shall be extended in the discretion of the enforcement officer issuing such revocation notice or unless a shorter period of time has been prescribed for in this chapter. Revocation notices shall be served by hand delivery at the property or by posting on the front door of the residence if no one is available for delivery. The landlord and resident agent may file a written notice of appeal by hand delivery of mail received by the Town Clerk's office prior to the expiration of the said ten-day period. If such notice is duly filed, the revocation of the short-term rental permit shall be stayed pending a decision on the appeal by the Town Board pursuant to § 129-12 herein.

§ 129-8 Requirements/Restrictions on use and occupancy pursuant to short-term rental permits.

- A. It is the responsibility of the landlord or absentee landlord to ensure proper and legal occupation of the premises and compliance with this article. **[Amended 2-24-2022 by L.L. No. 1-2022]**
- B. The premises for which a short-term rental permit has been granted can only be used for residential purposes.
- C. Occupancy of a Short-Term Rental is limited to the maximum people permitted as per the approved septic design for the number of bedrooms in the Town Building Department records. A typical septic system, that meets NYS Department of Health Design Standards, permits a maximum occupancy of two persons in the Short-Term Rental per recorded bedroom count in the Building Department records. **[Amended 2-24-2022 by L.L. No. 1-2022]**
- D. A tenant in possession pursuant to short-term rental is prohibited from subleasing or otherwise licensing the use or occupancy of any portion thereof.

- E. Advertising for the subleasing of, or selling or assigning of shares to, the premises by a tenant, or occupant, for the use or occupancy of all or a portion of the premises is prohibited.
- F. All tenants shall ensure that at no time shall ingress or egress from any driveway be impeded.
- G. The tenants of short-term rental premises and their guests shall not park any motor vehicle in a manner so as to block or prevent access to driveways or easements or rights-of-way.
- H. 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 is prohibited.
- I. Trash, refuse and recycling shall not be left stored within the public view, except in proper containers for the purpose of collection by the collectors, set out no earlier than 5:00 p.m. on the evening prior to scheduled trash and recycling collection days, and shall otherwise comply with § 63-3E of the Code. Trash and Recycling schedules must be posted by the landowner in the Short Term Rental.
- J. No guests other than those contracting for and residing in the short-term rental property are permitted on the premises overnight. **[Added 2-24-2022 by L.L. No. 1-2022]**
- K. No events, such as but not limited to weddings, parties or concerts, are permitted in a short-term rental property. **[Added 2-24-2022 by L.L. No. 1-2022]**
- L. Short-term Rental owners shall post a copy of the following in an open and conspicuous place in the rental unit that shall be visible to all guests:
 - (1) Short-term Rental permit number
 - (2) A copy of the town Noise Ordinance Chapter 100A.
 - (3) A safety/egress plan shall be posted in a visible location inside the Short-term Rental and on the back of each bedroom door offered for rent.
 - (4) A property map (either a survey map or a tax map printed from Orangecountygov.com/real property depicting the boundaries and notice to guests not to trespass on neighbors' property.

§ 129-9 No presumption of compliance.

The issuance of a short-term rental permit shall create no presumption that the short-term rental unit complies with the provisions of this article.

§ 129-10 Evidence of use and occupancy.

The parking of motor vehicles on the premises for which a short-term rental permit has

been granted between the hours of 1:00 a.m. and 6:00 a.m. shall be prima facie evidence that the rental unit was used and occupied during that time by at least one person for each motor vehicle so parked.

§ 129-11 No transferability.

A short-term rental permit shall not be transferred or assigned to any person or used by any other person other than the permittee to whom it was issued.

§ 129-12 Appeals.

- A. If the Building Inspector denies an application for short-term rental, denies an application for renewal of a permit for short-term rental, or revokes a permit for short-term rental, it shall be done in writing, reciting the grounds for denial or revocation.
- B. An applicant or permittee, as applicable, may appeal from such denial or revocation by filing a written request for a hearing before the Town Board. Such request shall be filed with the Town Clerk.
- C. Upon receipt of such request, the Town Clerk shall schedule same for the next regularly scheduled Town Board meeting, affording the appellant at least five days' written notice of the place, date and time of the hearing, and publish notice of same.
- D. At the hearing, the appellant shall be afforded reasonable opportunity to be heard. The public shall be afforded reasonable opportunity to be heard. The appellant shall bear the burden of proof by a preponderance of the credible evidence to show that the determination of the Building Inspector was arbitrary or capricious or in excess of his authority. The decision of the Town Board of Trustees shall be final and conclusive.

§ 129-13 Fees for permits.

[Amended 2-24-2022 by L.L. No. 1-2022]

- A. An application fee for a short-term rental permit, in an amount established by resolution of the Town Board, listed in the Schedule of Fees, shall be paid by the property owner at the time of application.
- B. A renewal fee for the renewal of a short-term rental permit, in an amount established by resolution of the Town Board, shall be paid by the landlord or absentee landlord at the time of application for renewal.

§ 129-14 Penalties for offenses.

- A. Violations of this article will constitute a municipal violation and will be subject to applicable penalties under this article in addition to those imposed by any other applicable code or ordinance, including, without limitation, Chapter **82**, Fire Prevention and Building Code Administration, or Chapter **67**, Unsafe Buildings.

B. Penalties for violations of these regulations will be imposed as follows:

(1) Failure to register as a landlord or resident agent:

(a) First offense: \$500 per day.

(b) Subsequent offenses: \$750 each per day.

(2) Allowing occupancy without valid permit:

(a) First offense: \$500 per unit per day.

(b) Subsequent offenses: \$750 each per unit per day.

Section 2. – This Local Law will take effect upon the filing of same with the New York State Secretary of State.