

INTRODUCTORY LOCAL LAW NO. 1 OF 2022

A LOCAL LAW ADDING CHAPTER 77A ENTITLED “SHORT-TERM RENTALS” TO THE TOWN CODE OF THE TOWN OF CHESTER

Be it enacted by the Town of Chester in the County of Orange, as follows:

Section 1. Title

This Local Law shall be referred to as, “A Local Law Adding Chapter 77A, Entitled, “Short-Term Rentals”, to the Town Code of the Town of Chester.

Section 2. Purpose and Legislative Intent

Due to the increase in tourism over the past years in the Town of Chester and adjacent local areas, there has been an increase in the number of property owners renting to tourists on a short-term basis. Many property owners in the Town of Chester list their properties as short-term rentals on web-based booking sites such as Airbnb or VBRO. These short-term rentals offer many benefits to property owners and residents in the Town of Chester, but also have the potential create health, safety and quality of life detriments to the community. Accordingly, the purpose and legislative intent of this local law is to regulate the use and safety of these short-term rentals so as to further secure and promote the public health, comfort, welfare, safety and peace for residents of the Town of Chester.

Section 3. Authority

This Local Law is adopted pursuant to Article 16 of the New York State Town Law, which expressly grants the Town Board of the Town of Chester authority to adopt local laws for the purposes of promoting the health, safety and welfare of the Town of Chester and its residents. This Local Law is further adopted pursuant to New York Municipal Home Rule Law Article 2, Section 10, which grants the Town Board of the Town of Chester the power to protect and enhance the physical environment of the Town of Chester.

Section 4. Short-Term Rentals

Chapter 77A, entitled “Short-Term Rentals” is hereby added to the Town Code of the Town of Chester, to read as follows:

§77A-1. Title.

This Local Law shall be referred to as, “A Local Law Adding Chapter 77A, Entitled, “Short-Term Rentals”, to the Town Code of the Town of Chester.

§77A-2. Purpose and Legislative Intent.

Due to the increase in tourism over the past years in the Town of Chester and adjacent local areas, there has been an increase in the number of property owners renting to tourists on a short-term basis. Many property owners in the Town of Chester list their properties as short-term rentals on web-based booking sites such as Airbnb or VBRO. These short-term rentals offer many benefits to property owners and residents in the Town of Chester, but also have the potential create health, safety and quality of life detriments to the community. Accordingly, the purpose and legislative intent of this local law is to regulate the use and safety of these short-term rentals so as to further secure and promote the public health, comfort, welfare, safety and peace for residents of the Town of Chester.

§77A-3. Authority.

This Local Law is adopted pursuant to Article 16 of the New York State Town Law, which expressly grants the Town Board of the Town of Chester authority to adopt local laws for the purposes of promoting the health, safety and welfare of the Town of Chester and its residents. This Local Law is further adopted pursuant to New York Municipal Home Rule Law Article 2, Section 10, which grants the Town Board of the Town of Chester the power to protect and enhance the physical environment of the Town of Chester.

§77A-4. Definitions.

All of the terminology and definitions contained in this Chapter which relate to the nature of sound and the mechanical detection and recordation of sound are in conformance with the terminology of the American National Standards Institute or its successor body.

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

OWNER-OCCUPIED PROPERTY

Property which the record owner maintains as his or her domicile.

RESIDENT AGENT

An authorized representative of a property owner or landlord who resides within the designated boundaries of Orange County as defined at the time of the issuance of the permit and all subsequent permit renewals and who shall be contacted for emergencies or other matters that may arise at the short-term rental property. A resident agent must be an individual permit, not a corporation, limited liability company or similar entity.

SHORT-TERM RENTAL

Offering any residential dwelling, or space therein, to persons in exchange for a fee or compensation, whether monetary or otherwise, for a period of less than thirty (30) days, including, but not limited to, rentals provided by such companies as Airbnb and VRBO. Excluded from this definition are month-to-month tenancies, bed and breakfasts, and hotels and inns which have valid and approved site plans from the Town of Chester Planning Board.

SHORT-TERM RENTAL PERMIT

A permit granted by the Town Building Department for each use of property for short-term rentals.

SHORT-TERM RENTAL PROPERTY

Any real property which is offered and/or rented for short-term.

§77A-5. Regulation of Short-Term Rental Properties.

- (A) Short-Term Rentals shall only be permitted in the SR-1, SR-2, LB-SL, and AR-3 residential zones in the Town. Any short-term rental located within the LB and AI zones that meets all other criteria provided for in this Chapter, and was in existence as of the date of adoption of this Local Law, may continue to operate provided, however, that such short-term rental be registered with the Town of Chester Building Department within 30 days of the effective date of this Local Law.
- (B) Only single-family and legal, owner-occupied two-family dwellings or a mixed-use structure with valid certificate of occupancy may be used as a short-term rental property.

- (C) Orange County Hotel and Motel Occupancy Tax. All short-term rentals shall comply with the Orange County Hotel and Motel Occupancy Tax (Local Law No. 13 of 2009). An operator of a hotel or motel may be responsible for the collection of tax on occupancy of hotel or motel room rentals. Included in the definition of Hotel/Motel rooms are short-term and/or vacation rentals and properties typically listed on sites such as Airbnb and VRBO.
- (D) In the event that a property being used as a short-term rental is located in a development that has an HOA (Home Owners Association), written consent from the established HOA must be submitted with the permit application.
- (E) All short-term rental properties must be registered with the Town of Chester Building Department within 30 days of the effective date of this article and/or prior to the premises being used as a short-term rental. It shall be the responsibility of the property owner to register any short-term rental property as required by this Chapter. Failure to do so shall constitute a violation of these regulations and is subject to the penalties set forth herein.
- (F) Clear signage is required to be posted within the short-term rental property to ensure the tenants, guests and invitees understand the local ordinances, occupancy limits, parking and garbage rules and have the number of the local contact.
- (G) Property owner is required to maintain a guest registry with contact information and is to be made available to the Town if/when requested.
- (H) No Additional parking spaces may be added or constructed between the primary residential structure and the street.
- (I) The following terms and conditions shall apply to all short-term rentals:
 - 1. No illegal conduct shall be carried on at the short-term rental property by the property owner, rental tenants, guests or invitees.
 - 2. A tenant of the short-term rental is prohibited from subleasing or other licensing the use or occupancy of any portion of the short-term rental property.
 - 3. The property owner and/or resident agent shall make all tenants aware of the Town's noise ordinance. Any conduct in conflict with this ordinance or which is unreasonable under the circumstances and which disturbs the health, safety, peace, or comfort of the neighborhood or which creates a public nuisance is prohibited.
 - 4. All garbage, rubbish and/or recyclables shall be stored and placed by the curb on designated removal days consistent with the Town Code and shall not be left stored in public view unless contained within proper containers.

5. No trailers, recreation vehicles, campers, caravans or motor homes to be used as a short-term rental.
6. The Building Inspector has the right to determine if and when the property would require fencing or privacy landscaping.

§77A-6. Registration of Short-Term Rental Properties.

- (A) It shall be a violation of this Chapter to offer or engage in short-term rentals unless the rental property has been registered with, and rental permit is obtained from, the Town of Chester Building Department as provided in this section within 30 days of the effective date of this chapter.
- (B) The registration of short-term rental property shall be accomplished by submitting a completed registration application on a form promulgated by the Town Building Department in accordance with the provisions of this section. Such form shall contain a minimum of the following information:
 1. The name, address, telephone number and email address of the record owner of the property and any designated resident agency they may designate;
 2. The street address and Tax Map Number of the rental property;
 3. The total number of bedrooms in the rental property.
 4. Applicable overnight and daytime occupancy limit of the short-term rental;
 5. If the short-term rental property is not served by municipal water and sewer, proof shall be provided that the onsite utilities have been properly maintained and are in conformance with all applicable standards; and
 6. The permit application shall be accompanied by proof of liability insurance for the property with policy limits no less than \$1,000,000 per occurrence.
- (C) Upon submission of an application for as short-term rental permit, the property owner shall contact the Building Inspector to schedule an inspection and pay to the Town a permit fee, as prescribed in the Town's schedule of fees. The Building Inspector shall then conduct an inspection of the short-term rental property to determine whether it complies with the Town Code and all applicable New York State laws, rules, regulations, codes and ordinances, and to verify the occupancy limits of the structure.

- (D) Upon completion of an inspection of the short-term rental property and ascertaining that the property meets the Town Code's requirements, the Building Inspector shall issue a registration for the property as a short-term rental and the property will then be eligible to apply for as short-term rental permit.
- (E) Registration for short-term rentals shall remain in effect as long as there is no change in the record owner of the short-term rental property. Upon a change in ownership, the new owners of the short-term rental property shall be required to once again register it before offering it for short-term rentals.
- (F) In the event that the Building Inspector denies an application to register short-term rental property, the property owner may appeal the denial to the Town Board within thirty (30) days of issuance of notice of the denial to the property owner.
- (G) Short-term rental registration may not be transferred to any other person or property or used by anyone other than the person and property to whom it was issued.
- (H) In the event that there is any change in the information provided by a property owner in his application for a short-term rental registration, he/she shall advise the Town Building Department in writing of such change no later than forty-eight (48) hours after such occurrence. Failure to advise the Building Department of a change in the information provided by the property owner in his application shall constitute a violation of this chapter.

§77A-7. Short-Term Rental Permits.

- (A) Official notification for each instance a short-term rental property is rented must be made to the Town of Chester no less than 24 hours prior, and no more than 30 days prior to each use of the short-term rental property for as a short-term rental. Notification may be made via the Town's website on designated forms or can be made in person simultaneously with applications to register short-term rental property on a form promulgated by the Town of Chester Building Department.
- (B) The Building Inspector may deny an application for short-term rental permit if the application is incomplete or the property otherwise fails to meet the criteria for grant of a short-term rental permit.
- (C) Short-term rental permits and inspections must be renewed every year.

§77A-8. Suspension or Revocation of Short-Rental Rental Rights.

- (A) It is the responsibility of the property owner to comply with all terms and provisions of this Article and to ensure that short-term rental tenants, guests and invitees comply with this Article and the terms and conditions of the rental permit. Any failure of rental tenants, guests and invitees to comply with this Article and the terms and conditions of the short-term rental permit shall be attributed to the failure of the property owner to discharge his or her responsibility to ensure such compliance.
- (B) Upon receipt of a complaint or upon his/her own initiative, the Building Inspector may investigate any property for failure to comply with the terms of this Article.
- (C) If upon investigation, the Building Inspector determines that a violation of this chapter and/or of the terms and conditions of a short-term rental permit has occurred on the rental property, he/she shall issue a written notice of the violation of the property owner and shall provide a copy of the same to the Town Board.
- (D) The Building Inspector may also issue a notice of suspension if it is determined any of the information contained within the permit application is false or if the short-term rental property is found at any time to be in violation of the NYS Building Code or other aspect of the Town Code.
- (E) Revocation and suspension notices shall be in writing shall identify the property 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 violations unless otherwise extended by the Building Inspector. The property owner or resident agent shall take the remedial action prescribed or may file a written notice of appeal received by hand delivery or certified mail by the end of the identified period of remediation. The revocation or suspension of the short-term rental shall be stayed pending either a decision on the appeal by the Town Board or a finding by the Building Inspector that the remedial action is acceptable to correct the violation.
- (F) If more than two (2) violation notices are issued in any 12-month period, the property owner or Registered Agent will be suspended from receiving a permit for short-term rental for 6 months. There will be no deduction or refund of fees.
- (G) If property owner and/or agent continues to operate while under suspension, the Building Inspector has the right to automatically revoke the short-term rental permit and issue an appearance ticket.

§77A-9. Fees for Registration and Issuance of Permits.

The Town Board shall set such application and permit fees as it may find appropriate for short-term rentals by resolution and such fees shall be listed in the Town's Schedule of Fees.

§77A-10. Penalties for Offenses.

- (A) Violations of this Article will constitute a municipal violation and will be subject to applicable penalties under article. The penalties for violation of this Chapter shall be in addition to any penalties imposed for violations of other provisions of the Town Code and NYS Uniform Fire Prevention, Building Code and Energy Conservation Code.
- (B) Conviction of violation of the provisions of this article shall be punishable by fine of not more than \$500.00 per violation and \$750.00 per day for subsequent offenses.
- (C) The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceeding to prevent unlawful short-term rental of a property in violation of this article, including, without limitation, civil actions for injunctive relief to immediately terminate any existing short-term rental occupancy of buildings, land or premises.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.