

# Article I Short-Term Rental Property

## Article I:Registration; Rental Permits

### § 129-1 Purpose.

The Town Board of the Town of Warwick do 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.

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

#### **ABSENTEE LANDLORD**

Any landlord 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.

#### **BUILDING INSPECTOR**

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

#### **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.

#### **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 property owner or designated 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.

#### **SHORT TERM RENTAL PERMIT**

A permit issued by the Town of Warwick stating that the referenced structure or unit conforms to the standards of the 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 limited to rentals provide by such companies as Air BnB and VBRO. Month to month tenancies are not considered Short Term Rental Properties.

### **RESIDENT AGENT**

A representative of a property owner or 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.

### **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 thirty (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.** 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) A floor plan indicating the placement and size of each conventional bedroom, exit and fire-protection system;
- (8) A listing of each manner or mechanism through which the rental unit is listed for rental; and
- (9) The fully completed form must be notarized.
- (10) A copy of a valid certificate of occupancy for the real property;
- (11) Proof that any septic system complies with all current requirements set forth by New York State, Orange County and the Town of Warwick; no property equipped with a cesspool may be used for short-term rental;
- (12) Written proof of liability insurance for the property with policy limits in an amount of no less than \$1,000,000.00.
- (13) Name, social security number, telephone number, e-mail address, mailing address and physical address of the Landlord a Registered Agent (A post office box is acceptable);
- (14) 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;
- (15) 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;
- (16) Acknowledgment of receipt and inspection of the Code of the Town of Warwick Chapter 129; and
- (17) The fully completed form must be notarized.

**(C)** 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.

**(D)** Leaseholders and tenants may not engage in short-term rentals.

**(E)** All Short Term Rental Permits shall expire one year after the date of issuance, unless sooner revoked.

**§ 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 re-inspection 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 & Chapter 82.

**B.** All inspections finding substandard conditions will be subject to the procedures set forth for violation of Chapter 67, Buildings, Unsafe, 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 no fee for the first reinspection. There shall be a fee of \$25 for each subsequent reinspection.

**§ 129-11 Fees for permits.**

- A.** An application fee for the 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 property owner at the time of application for renewal.

**§ 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 property owner.
- 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 property owner, upon which such short-term rental permit had been issued.
- 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.**

The Building Inspector may revoke a short-term rental permit based upon, among others, any of the following grounds:

- A.** \_ The owner 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 property owner.
- B.** \_ The applicant violated any provision of this article during the term of the short-term rental permit.
- C.** \_ The applicant or any tenant violated any provision of the Code of the Town of Warwick.
- D.** \_ 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.
- 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.** \_ 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.
- G.** \_ 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.

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

- A.** \_ It is the responsibility of the property owner to ensure proper and legal occupation of the premises and compliance with this article.
- B.** \_ The premises for which a short-term rental permit has been granted can only be used for residential purposes.
- C.** \_ No more than three adult persons can occupy any one bedroom.
- 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.

**§ 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 Nontransferability.**

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.

§ 129-14 **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, Buildings, Unsafe.

**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: \$1000 per day.

**(b)** Subsequent offenses: \$500 each per day.

**(2)** Allowing occupancy without valid permit:

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

**(b)** Subsequent offenses: \$500 each per unit per day.



Town of Warwick

Intro Local Law No. 5 of the year 2018

**A local law placing a three-month moratorium on all proposed requests, applications and activities associated and authorized by Zoning Law §164-47.3 the "Agricultural Protection Overlay District" ("AP-O") in the Town of Warwick.**

Be it enacted by the Town Board of the Town of Warwick as follows:

## SECTION 1. LEGISLATIVE INTENT

The Town Board of the Town of Warwick has authorized its Town Planner to review, analyze, and report on his recommendations for modifying the Agricultural Protection Overlay (AP-O) District's provisions. Until such time as those recommendations have been received by the Town Board, the Town hereby finds that there is a critical and compelling need, in the public interest as set forth herein, to impose a moratorium on all actions authorized under the AP-O District in order to provide for an opportunity to review said recommendations and if necessary, to update and/or revise the Town Zoning Law. The enactment of this Local Law is designed to protect the health, safety and welfare of Town residents, to prevent land use development which may prejudice and be inconsistent with the Town's Comprehensive Plan and new or amended land use laws or regulations which may be enacted and/or approved by the Town Board.

## SECTION 2. MORATORIUM

a. A moratorium is hereby imposed from the effective date of this local law for a period of three (3) months on (a) the filing and acceptance by the Town Clerk of any request of a landowner for an AP-O designation; (b) acceptance of any pending request by a landowner for an AP-O designation; and (c) the filing and acceptance by the Town Clerk of any statement of participation from an existing landowner within an AP-O Qualifying Area, authorized by §164-47.3(B)(5); and (d) the filing of or further processing by the Planning Board, Zoning Board of Appeals or Town Board of any application for Special Benefits as defined in and authorized by §164-47.3(C)

b. The Planning Board shall not consider any applications for site plan review or special use permit approval, or subdivision, including any such application currently pending before the Planning Board, for matters within the scope of this moratorium for the term of this moratorium.

c. No permit shall be issued under the Warwick Zoning Law for the construction of any new building or structure for matters within the scope of this moratorium for the term of this moratorium.

**d. The Zoning Board of Appeals shall not consider any application for a use or area variance for the construction of any new principal building or accessory structure, including any such application currently pending before the Zoning Board of Appeals, for matters within the scope of this moratorium for the term of this moratorium.**

e. Exemptions. This moratorium shall not apply to any activity authorized by a permit in existence prior to the effective date of this law issued pursuant to §164-47.3

### SECTION 3. STATEMENT OF AUTHORITY.

This local law is authorized by the New York State Constitution, Article IX, Section 2, the provisions of the New York Municipal Home Rule Law (MHRL), the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Warwick and the general police power vested with the Town of Warwick to promote the health, safety and welfare of all residents and property owners within the Town.

### SECTION 4. SUPERSESSION OF TOWN LAW

Pursuant to the authority granted in Municipal Home Rule Law section 1(ii)(d)(3) and in accordance with section 22(1) of the MHRL, this local law supersedes Sections 267-a, 267-b, 274-a and 274-b, 276, 277, 278 of the New York State Town Law.

### SECTION 5. HARDSHIP WAIVER

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability. However, the Town Board may, but is not obligated to, promulgate regulations by a Resolution of the Town Board authorizing a hardship waiver process to this moratorium if it subsequently determines that a waiver process is necessary and in the best interests of the Town.

### SECTION 6. PENALTIES FOR VIOLATION

In the event of violation of this local law, the penalties shall be those listed in §164-54 of the Zoning Law of the Town of Warwick.

### SECTION 7. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

### SECTION 8. EFFECTIVE DATE

This local law shall take effect immediately after it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.