

**TOWN BOARD WORK SESSION****Town of Wilmington****Wednesday, May 26, 2021****4:00 PM-Community Center****Town Board Members Present: Supervisor-Roy Holzer****Councilwoman-Dawn Stevens****Councilwoman-Paul McGreevy****Councilwoman-Rarilee Conway****Councilman-Darin Forbes****Also Present: Nancy Randall-Town Clerk, Doug Nemec-Code Officer, Michelle Preston, Travis Holzer**

**Topic of discussion was regarding amending the Revised April 2021 Draft Version of the" Town of Wilmington Land Use Code with a new definition for short-term rental". It was decided it needed further revision.**

**The following changes were made:**

**Revised JUNE 2021 –DRAFT VERSION**

**A Local Law "Amending the Town of Wilmington Land Use Code to Add Regulations Pertaining to Short-Term Rentals"**

**Be it enacted by the Town of Wilmington as follows:**

**Part 1**

**Article XVI - definitions of the Wilmington Land Use Code are hereby amended with a new definition for "Short-Term Rental", "Full Bathroom", and "Half-Bath" and "Occupant" to read as follows:**

**Short-Term Rental:** A dwelling unit that is rented, in whole or in part, to any person or entity for a period of less than 30 consecutive nights, and includes any residential building or apartment, single- or two family dwelling, condominium, townhouse, guest house, cottage, cabin, or accessory dwelling which is rented as a living quarters for any period less than 30

consecutive nights. This definition excludes hotels, bed and breakfast establishments, rooming houses and school or non-profit dormitories, also excluded are owner occupied homes.

“Rental” means an agreement granting use or possession of a residence, in whole or part, to a person or group in exchange for consideration valued in money, goods, labor, credits, or other valuable consideration. Use of a short-term rental by a record owner of a property shall not be considered to be a rental under this section.

**Full Bathroom:** A full bathroom shall mean a room in a home for personal hygiene activities containing a toilet, a sink and a shower or bathtub.

**Half-Bath:** A half bathroom shall mean a room in a dwelling for personal hygiene activities containing a toilet and a sink.

**Occupant:** Any persons (including children two years of age and above) located on a short-term rental property between the hours of 10:00 pm and 7:00am.

## **Part 2**

The Town of Wilmington Land Use Code is hereby amended with the insertion of a new Article VI General Regulations for “Short-Term Rental” to read as follows:

### **Article VI Short Term Rental**

#### **Article VI - Short-Term Rental registration is required**

##### **Purpose**

A. The purpose of this local law is to amend the Town of Wilmington Land Use Code to regulate the short-term rental of dwelling units within the Town of Wilmington and to establish comprehensive licensing regulations to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, oversight and maintenance of short-term rental properties. The Town of Wilmington also recognizes that the historical nature and the beauty of our area is that of a small, residential resort community of owner-occupied dwellings and that extensive short-term rentals endanger the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring homeowners. Accordingly, in order to respect the property rights and interests of all homeowners in the Town of Wilmington, this local law seeks to achieve a balance between those who offer their homes as short-term rental properties and those who choose not to do so.

B. This section shall apply to all properties in the Town of Wilmington.

C. The Town of Wilmington reserve the right to adopt regulations to carry out the provisions and purposes of this section.

#### **Short-Term Rental Regulations**

**A. Permit is required. An owner shall obtain a revocable short-term rental permit whenever a dwelling is to be used for short-term rental purposes.**

- 1) A short-term rental permit shall be obtained prior to using the unit as a short-term rental. No property may be used as a short-term rental without a short-term rental permit.
- 2) A short-term rental permit shall be valid for two years from the date of issue, shall expire on the second anniversary date of the date of the permit is issued, and must be renewed upon expiration as long as the unit is used as a short-term rental. The renewal application reviewed and updated at renewal.
- 3) Existing short-term rental permit will not be transferable to a new owner of the short-term rental property, unless approved by the Codes Enforcement Officer.
- 4) If the terms of the short-term rental permit are not followed, or these regulations or those subsequently adopted are not followed, the short-term rental property permit may be revoked and the owner shall be subject to the penalties set forth in this ordinance.
- 5) No permit shall be issued, nor re-issued, unless and until the property complies with the Town of Wilmington Land Use Code, expressly including the terms of this section, the New York State Building Code.
- 6) Occupancy Tax Registration. No permit shall be issued unless the short-term rental property is registered with the Occupancy Tax Program administered by the Essex County Treasurer's Office.
- 7) Application fees for a 2 year permit are as follows:
  - a) Registration fee of \$100. plus
  - b) \$50.00 additional fee for each bed room/sleeping area
  - c) When owners change, a new registration fee is due.

**B. Short-Term Rental Permit Application Requirements. An application for, or renewal of, a short-term rental permit shall be submitted to the Code Enforcement Officer/ or Building Inspector, signed by all persons and entities that have an ownership interest in the property, shall be accompanied by payment of the permit fee, in an amount to be set by resolution of the Town Board of Wilmington, shall be accompanied by a copy of the current vesting deed or tax bill showing how title to the subject property is then held, shall be completed on the form provided and established by The Town of Wilmington Board**

and the Code Enforcement Officer/ or Building Inspector, and shall, at a minimum, provide the following information:

- 1) A list of all of the property owners of the short-term rental property including names, addresses, telephone numbers and email addresses. If owned by a limited liability company, a corporation or other entity the names, addresses, telephone numbers and email addresses of the members, shareholders, officers and principals of such entities.
- 2) Completion of a signed affidavit by the property owners(s) certifying the following and Compliance with the following standards:
  - (1) New Short-Term Rental and structural changes to existing Short-Term Rentals must be approved by Code Enforcement officer/Building Inspector.
  - (2) There shall be one functioning smoke detector in each sleeping room and at least one functioning smoke detector in the main room of each level, one functioning fire extinguisher on each level and in each room with an open flame source, and at least one carbon monoxide detector on each level.
  - (3) Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
  - (4) Electrical systems shall be serviceable with no visual defects or unsafe conditions.
  - (5) A form of communication must be provided in each rental unit in case of emergency. Phone numbers for emergency services and the address of the rental unit shall be put beside the phone and in the welcome book. A fire escape map shall also be in the welcome book.
  - (6) Each sleeping room shall be in compliance with the New York State Building Code.
    - (b) A statement of the number of sleeping rooms within the short-term rental property that meet the standards set forth herein.
    - (c) A statement of the number of parking spaces on the property that meets the standards set forth herein. No on street parking is permitted.
    - (d) Affidavit certifications shall be valid during the term of the short-term rental permit, or until modifications requiring a building permit are made, or until the Code Enforcement Officer/ or Building inspector has reason to believe another inspection is warranted. By applying for a short-term rental permit, the owner(s) consent(s) to the Code Enforcement Officer/ or Building Inspector entering the subject property to conduct such an inspection. If relevant circumstances on the

property change or for any reason the certification is or becomes inaccurate, a new certification shall be submitted

(e) The form of the affidavit certification shall be established.

- 3) A site plan, drawn showing the location of buildings, required parking and, the location of the septic system and the leach field. An accurate, suitable plan need not be prepared by a professional. However, should septic need to be repaired or replaced, normal building code requirements apply.
  - 4) The name, address, telephone number and email address of a contact person, who shall be responsible, and authorized, to act on the owner's behalf to promptly remedy any violation of these standards or the permit. The name, address, telephone number and email address of the owner who shall also serve as a secondary contact person. The contact person may be the owner or an agent designated by the owner to serve as a contact person. This contact person must be located within 60 minutes travel distance by car and must be available 24 hours per day, 7 days a week.
  - 5) The property must have sufficient off-street parking, with reasonable access for emergency vehicles.
  - 6) A house number visible at night from the street or road shall be maintained.
  - 7) 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.
  - 8) Advertisements for the short-term rental must conform to what is allowed under these regulations and the short-term rental permit.
  - 9) Each sleeping room shall be at least 70 square feet in size.
  - 10) A statement that the applicant has met and will continue to comply with the standards of these regulations and the permit.
- 3) Short-Term Rental Standards. All short-term rentals shall meet the following occupancy standards:
- (a) The maximum occupancy for each short-term rental unit shall be the most restrictive of the following:
    - (b) Maximum occupancy shall be calculated as 2 times the number of bedrooms that are in compliance with the New York State Building Code plus 2 additional occupants unless otherwise specified by the Codes Enforcement Officer.

4) Procedure upon filing application.

(1) Upon the filing of a complete application with the Codes Enforcement Officer/ or Building Inspector of the application, permit fee, and all documents and information required by this section, the Codes Enforcement Officer/ or Building Inspector shall have 30 days to review the application and then either issue the permit, with or without conditions, or notify the applicant in writing that the application has been denied along with the reason or reasons for denial. If a permit is issued, the permit shall bear the signature of the Codes Enforcement Officer/ or Building Inspector.

(2) In reviewing the application, if the Code Enforcement Officer has reasonable cause to believe information contained in the application is inaccurate or incomplete, they may exercise his right to inspect 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 issue the permit, with or without conditions, or to not issue the permit.

(3) In issuing a short-term rental permit, the Codes Enforcement Officer/ or Building Inspector may impose reasonable conditions and restrictions as are directly related to and incidental to the use of the property for short-term rentals so long as such conditions and restrictions are consistent with the Town of Wilmington Land Use Code.

(4) The Codes Enforcement Officer/ or Building Inspector will decline an application for any of the following reasons:

- (a) If the application is incomplete, the documentation required by this section or regulations adopted by the Town of Wilmington Land Use Code was not included with the application or the full permit fee, in an acceptable form of payment, was not included with the application.
- (b) If the affidavit from the owners or if an inspection conducted by the Codes Enforcement Officer/ or Building Inspector as authorized in this section evidences that subject property is not in compliance with this section or the Town of Wilmington Land Use Code.
- (c) If the site plan required to be submitted with the application does not comply with the requirements of this section.

(5) Short-term rental applications issued pursuant to this section shall state the following:

- (a) The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available to respond to or investigate complaints during the entire time (24 hours per day) 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
- (d) A statement that all fires must be attended and have a means of being put out. Example; hose
- (e) A statement that the short-term rental permit may be revoked/suspended for violations;
- (f) Any conditions imposed by the Codes Enforcement Officer/ or Building Inspector; and/or the planning board.
- (g) That the permit shall expire on the day before the second anniversary of the date the permit was issued.

5) Display of Permit and Notification.

(1) The issuance of a short-term rental permit is subject to continued compliance with requirements of these regulations.

(2) Prior to any renters taking occupancy of the short-term rental property:

(a) A hard copy of the current short-term rental permit shall be available for public inspection in the Codes Office.

(b) Sticker or permit must be displayed with name of contact person, phone number and expiration date of permit.

(3) The owners must ensure that current and accurate information is provided to the Codes Enforcement Officer/Building Inspector.

6) Compliance, Hearings and Penalties. Owners of short-term rental units shall obey all applicable laws, ordinances and regulations of the Town of Wilmington, Essex County, New York State and the United States of America, and shall be subject to enforcement and penalties.

The following process shall be followed in the event of a complaint alleging a violation of these regulations or a permit issued under these regulations:

- (1) The complaining party may contact the contact person designated on the permit, a law enforcement agency, the Code Enforcement Officer/Building Inspector or any other person or entity which could assist in resolving the complaint, and describe the problem from which the complaint arise and indicate the desired remedy. If the complaint is a safety concern please send an e-mail to the Codes Enforcement Office/Building inspector at [codes@townofwilmington.org](mailto:codes@townofwilmington.org)
- (2) The contact person shall, within sixty minutes of receiving a complaint, respond to the complaint and remedy as soon as reasonably possible any situation that is out of compliance with these regulations or with the permit for the property.
- (3) If the response is not satisfactory to the complaining party (including the inability to promptly reach the contact person), the complaining party may file a complaint with the Codes Enforcement Officer/Building Inspector by submitting a written complaint. The form for filing a complaint shall be established by the Wilmington Town Board and the Codes Enforcement Officer/Building Inspector and may be filed in person, by mail, or by e-mail. This form will be available from the Town offices and /or the Codes Enforcement/Building Inspector. The complaint shall provide pertinent information including the date, time and nature of the alleged violation as well as a statement that the complainant either unsuccessfully attempted to contact the contact person and the complaint was not adequately resolved. A failure to attempt to contact the contact person will not excuse a violation.
- (4) If the Codes Enforcement Officer/Building Inspector finds a violation of the permit or of this section, the Codes Enforcement Officer/Building Inspector can attach reasonable conditions to the existing short-term rental permit if not resolved, a fee or penalty will be imposed. Under the direction of the town Board, the Code Enforcement Officer has the authority to suspend or revoke permit.
- (5) The Town of Wilmington may initiate enforcement proceedings under the Town of Wilmington Land Use Code at any time following receipt of complaint.
- (6) Decisions of the Enforcement Officer will be provided to the parties and may be appealed within 30 days of receipt of the decision, by the owner or by the complainant. Appeals arising under the short-term rental section of the code shall not result in a decision being stayed pending the appeal to the town board.
- (7) Any property owner found in willful violation of the provisions of this local law shall be required to reimburse the Town of Wilmington for its reasonable costs of enforcement, including reimbursement for staff time and reasonable attorney fees, and court costs.

**Penalties for Offenses- when appropriate, the Code Enforcement Officer will issue a verbal warning for first offenses. This is totally at the discretion of the Code Enforcement Officer.**



A. Any person, association, firm, company or corporation which violates any provision of this section shall be guilty of a violation punishable:

(1) First unresolved offense will be not less than \$150.00 or exceed \$1,000.

(2) Second notice of same unresolved offense will be not less than \$500.00 or more than \$2,500.

(3) Each week's continued violation constitutes a separate additional violation in assessing fines.

#### Miscellaneous

A. 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 judgement 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 judgement shall be ordered.

B. Other than the safety regulations of the New York State Building Code, the short-term rental standards set forth in this document shall not be applicable to rental units which are occupied by an owner who is a full-time resident in the unit. To qualify, the owner must reside within 500ft of rental unit.

C. The Code Enforcement Officer or their designee shall have the right to inspect short term rental property to insure it complies with the provisions of this land use code at any reasonable time of day upon giving notice to the owner or occupant of said unit.

This local law shall take effect immediately upon filing with the Secretary of State. There will be a six month grace period for existing short-term rentals to comply with the new Local Law.

The meeting was adjourned at 5:00 PM.

Respectfully Submitted

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Nancy Randall

Town Clerk

Social Security		Amt.	125.24
Health Insurance		Amt.	404.30
Other:		Amt.	
Other:		Amt.	

PLANNING ESCROW                      From: DG1    To:                      Amt.                      5800.88

Dated:                      May 11, 2021

\_\_\_\_\_ Supervisor  
 \_\_\_\_\_ Councilman  
 \_\_\_\_\_ Councilman  
 \_\_\_\_\_ Councilman  
 \_\_\_\_\_ Councilman

Attest: \_\_\_\_\_ Town Clerk

**BUDGET TRANSFERS**

**May 11, 2021**

**General**

From		To	
Fund Balance	1780.00	Attorney Expenses	1780.00
Fund Balance	2525.00	Insurance Expenses	2525.00
Fund Balance	4500.00	Parks Equipment	4500.00
<b>Total</b>	<b>8805.00</b>	<b>Total</b>	<b>8805.00</b>

Respectfully Submitted: Nancy P. Randall

**Nancy P. Randall/ TOWN CLERK**