

TOWN BOARD OF THE TOWN OF COPENACK, NEW YORK

A Local Law to Regulate Short-Term Rentals in the Town of Copake

Local Law No. ____ of 2023

DRAFT for INTRODUCTION: August 12, 2023

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

Section 1. Title.

This law shall be known as the "Town of Copake Short-Term Rental Law". It may be cited as "Town of Copake Local Law No. __ of 2023" or "L.L. __ of 2023".

§ 2. Purpose and Intent. Short-term rental of residential property has frequently been cited for both positive and negative attributes. Among the positive impacts asserted by supporters of short-term rentals, owners of residential properties may benefit from or rely on income derived from the short-term rental of their properties and the presence of short-term visitors may be beneficial to local businesses. Concerns, however, have also arisen about adverse impacts of transient occupants who may be insensitive to the interests of a neighborhood to which they lack community ties, and about the potential displacement of affordable long-term residential rentals by short-term occupancies.

The purpose of this Local Law is to balance the rights and interests of homeowners and property owners who may obtain income from the short-term rental of their properties with the interests of neighbors and the community, to ensure that the use of property for short-term rental to transient guests does not adversely affect nearby properties and does not impair the rights of nearby landowners and residents to peacefully enjoy their residences and properties.

§ 3. The following definitions are added to section 232-3 of the Code of the Town of Copake:

SHORT-TERM RENTAL (STR) – Rental of a dwelling unit or a portion thereof within a one-family dwelling, two-family dwelling, or accessory dwelling unit to provide lodging for a transient guest or two or more associated transient guests, for a period of less than thirty consecutive (30) days, in exchange for compensation, consideration, or anything of value. Short-Term Rental expressly excludes any use classified as and permitted by the Town of Copake as a hotel, motel, campground, bed & breakfast, dormitory, resort hotel, lodge or ranch, farm stay, or other use allowed under Table 2, the Table of Use Regulations.

SHORT-TERM RENTAL, ENHANCED – A short-term rental that is rented, or will be rented, to one or more STR Guests for a total of more than 120 days of non-exempt rental

during a one-year period.

STR GUEST – Any and each person, whether alone or as part of a group, staying in, or having obtained the right to stay in, a dwelling or dwelling unit in exchange for compensation, consideration, or anything of value, for a period of less than thirty days. Any person on the premises between the hours of 12:00 midnight and 6:00 AM shall be counted as a guest.

STR OWNER – The person, persons, or legal entity holding title to the premises used as a Short-Term Rental. Where a Short-Term Rental is to be located in an accessory dwelling, both the accessory dwelling and the principal dwelling to which it is accessory must have the same owner.

STR PRINCIPAL DWELLING – A dwelling used by the STR Owner as the main living accommodations on the property, lot, or parcel on which a Short-Term Rental occurs.

STR RENTAL PERIOD – The period of consecutive days a Short-Term Rental is rented to one STR Guest or an associated group of STR Guests.

§ 4. The following definition in section 232-3 of the Code of the Town of Copake is amended to read as follows:

TRANSIENT – Occupancy, or the right to occupancy, of not more than twenty-nine days.

§ 5. The definitions of “Boardinghouse” and “Tourist House” are repealed and removed from section 232-3 and from the Table of Uses of Chapter 232 (Zoning) of the Code of the Town of Copake.

§ 6. The use “Short-Term Rental” is added as a General Use to the Table of Uses of Chapter 232 (Zoning) of the Code of the Town of Copake as a permitted use in all zoning districts.

§ 7. The use “Short-Term Rental, Enhanced” is added as a General Use to the Table of Uses of Chapter 232 (Zoning) of the Code of the Town of Copake as a use requiring a special use permit in the RU zoning district and prohibited in all other zoning districts.

§ 8. Section 232-16.8 of Article VI of Chapter 232 of the Code of the Town of Copake, entitled “One-Family Dwelling” is repealed, and a new Section 232-16.8, entitled “Short-Term Rentals”, is added to Article VI of Chapter 232 of the Code of the Town of Copake, as follows:

§ 232-16.8. Short-Term Rentals.

A. Short-Term Rental for up to 120 days in aggregate in a one-year period is a permitted use in all zoning districts upon compliance with all provisions of this section. Enhanced Short-Term Rental is permitted only in the RU zoning district and requires a special use permit and site plan approval. Notwithstanding its classification in the Table of Uses as a general use, Short-Term Rental that is not an Enhanced Short-Term Rental is exempt from site plan review.

B. Enhanced Short-Term Rental. Short-Term Rental (STR) that or is expected to be rented to

STR Guests for a total of more than one hundred twenty days during a one-year period, not counting rentals exempt under subdivision E of this section, shall be designated an Enhanced Short-Term Rental (Enhanced STR).

- C. Short-Term Rentals are allowed only in one-family dwellings, two-family dwellings, and accessory dwelling units, and are prohibited in multifamily dwellings and elsewhere.
- D. In addition to the provisions of this chapter, Short-Term Rentals, except those exempt pursuant to subdivision E of this section, below, are required to obtain a Short-Term Rental Operating Permit in accordance with Chapter 187 of the Code of the Town of Copake.
- E. Exempt Rentals. The following rentals are permitted and exempt from the requirements of this section, and rentals that are exempt under this subdivision are not counted toward the 120 day short-term rental maximum.
 - 1. Short-term rental of a room or rooms in a dwelling unit in which the owner is in concurrent occupancy, or in an accessory dwelling unit and the owner is in concurrent occupancy in the principal dwelling on the parcel, and the owner is present overnight during the entire rental period. If the owner is a legal entity, the owner's concurrent occupancy requirement may be satisfied by a person who is a principal owner or officer of the owning entity.
 - 2. Any property, dwelling, dwelling unit, or portion of a dwelling unit that is only rented out to a renter or group of renters for periods of thirty consecutive days or more.
 - 3. A use classified as and permitted by the Town of Copake as a hotel, motel, campground, bed & breakfast, dormitory, resort hotel, lodge or ranch, farm stay, or other use allowed under the Table of Use Regulations, Table 2 of Chapter 232 of the Code of the Town of Copake.
- F. Enhanced STR: Special use permit, site plan review, and special provisions. In addition to being subject to and complying with all other provisions of this chapter applicable to STRs generally, an Enhanced STR shall be permitted only upon obtaining a special use permit and site plan approval in accordance with this chapter, and no parcel, building, or structure, or any portion thereof, shall be used for Enhanced STR except pursuant to a special use permit and site plan approval.
 - 1. A special use permit for Enhanced STR shall be limited in duration and shall be valid for a term of three (3) years.
 - (a) No earlier than six (6) months prior to, and no later than sixty (60) days after the expiration of such special use permit, the owner may apply for an expedited renewal of the special permit for a three (3) year period.
 - (b) Application requirements for an expedited renewal shall be limited to an attestation

by the applicant that the Enhanced STR remains in conformity with the prior special use permit approval and verification that the applicant's STR operating permit for the premises had not been suspended or revoked during the term of the most recent special use permit.

- (c) Such expedited renewal shall, however, be subject to the public hearing and notice provisions generally applicable to special use permit review.
 - (d) If a renewal application for an Enhanced STR special use permit is made outside of the renewal window set forth above, or when there has been, during the term of the most recently issued special use permit, a suspension of the STR operating permit pursuant to chapter 187 of the Code of the Town of Copake or the STR is not in conformity with its most recent prior special use permit approval, such application shall be treated as a new application and subject to a complete special use permit review.
2. In addition to the general considerations for site plan and special use permit approvals as set forth in sections 232-21(J.) and 232-23(D.), special use permit and site plan review for Enhanced STR shall ensure the following:
- (a) Provision by the owner of exterior trash containers of a type and capacity sufficient to contain and secure from animals all trash generated by STR Guests.
 - (b) At least one on-site parking space for each three STR Guests, based upon the maximum allowable occupancy of the dwelling unit used for Enhanced STR.
 - (c) The circumstances and conditions of the subject property ensure that the property's or dwelling unit's use as an Enhanced STR will not substantially interfere with the ability of neighbors to peacefully enjoy their own properties.
 - (d) Sufficient space, buffering or screening exists or is installed to mitigate noise, light, or other impacts that may substantially adversely affect nearby residences and the immediate neighborhood.

§ 9. A new Chapter 187 entitled "Short-Term Rentals" is added to the Code of the Town of Copake, to read as follows.

187-1. Definitions.

SHORT-TERM RENTAL (STR) – Rental of a dwelling unit or a portion thereof within a one-family dwelling, two-family dwelling, or accessory dwelling unit to provide lodging for a transient guest or two or more associated transient guests, for a period of less than thirty consecutive (30) days, in exchange for compensation, consideration, or anything of value. Short-Term Rental expressly excludes any use classified as and permitted by the Town of Copake as a hotel, motel, campground, bed & breakfast, dormitory, resort hotel, lodge or ranch, farm stay, or other use allowed under Table 2, the Table of Use Regulations.

SHORT-TERM RENTAL, ENHANCED – A short-term rental that is rented, or will be rented, to one or more STR Guests for a total of more than 120 days of non-exempt rental during a one-year period.

STR BACK-UP CONTACT – The person who will be contacted by neighbors, the Town, or a representative or agent of the Town to respond to immediate complaints or issues arising from a Short-Term Rental in the event the STR Designated Contact cannot be timely reached. The STR Back-up Contact may be the Owner or a person designated and identified by the Owner.

STR DESIGNATED CONTACT – The primary person who will be contacted by neighbors, the Town, or a representative or agent of the Town to respond to immediate complaints or issues arising from a Short-Term Rental. The STR Designated Contact may be the Owner or a person designated and identified by the Owner.

STR GUEST – Any and each person, whether alone or as part of a group, staying in, or having obtained the right to stay in, a dwelling or dwelling unit in exchange for compensation, consideration, or anything of value, for a period of less than thirty days. Any person on the premises between the hours of 12:00 midnight and 6:00 AM shall be counted as a guest.

STR OWNER – The person, persons, or legal entity holding title to the premises used as a Short-Term Rental. Where a Short-Term Rental is to be located in an accessory dwelling, both the accessory dwelling and the principal dwelling to which it is accessory must have the same owner.

STR PRINCIPAL DWELLING – A dwelling used by the STR Owner as the main living accommodations on the property, lot, or parcel on which a Short-Term Rental occurs.

STR RENTAL PERIOD – The period of consecutive days a Short-Term Rental is rented to one STR Guest or an associated group of STR Guests.

187-2. Registration and Operating Permit Required.

- A. No building, property, or premises within the Town of Copake shall be used for Short-Term Rental except in accordance with a valid and effective Short-Term Rental Operating Permit issued by the Town, provided, however, that no registration or Operating Permit shall be required for a Short-Term Rental deemed exempt pursuant to section 187-5 of this chapter.
- B. Application for a Short-Term Rental Operating Permit and registration shall be made on a form provided by the Town and shall include the following:
 - 1. Name, address, and contact information of the owner of the dwelling for which the permit is sought. If the owner is a legal entity, such information must also be provided for a principal owner or officer of such entity who is authorized to act in the name of and on behalf of such entity. Required contact information shall include the following:
 - (a) Address of the Owner.

- (b) Mailing address of the Owner.
 - (c) e-mail address of the Owner.
 - (d) Telephone number at which the Owner can be reliably contacted at any time.
- 2. The physical address, 911 address, and mailing address of the dwelling for which the permit is sought.
- 3. Name, address, and contact information for the STR Designated Contact. Required contact information shall include the following:
 - (a) Physical home, daytime, and nighttime address of the STR Designated Contact.
 - (b) e-mail address of the STR Designated Contact.
 - (c) Telephone number at which the STR Designated Contact can be reliably contacted at any time.
- 4. Name, address, and contact information for the STR Back-up Contact. Required contact information shall include the following:
 - (a) Physical home, daytime, and nighttime address of the back-up contact.
 - (b) e-mail address of the STR Back-up Contact.
 - (c) Telephone number at which the STR Back-up Contact can be reliably contacted at any time.
- 5. Every application shall provide contact information for both a primary STR Designated Contact and a secondary STR Back-up Contact, one of whom may be the Owner.
- 6. Proof of ownership of the property and dwelling where the STR will be located. This may be shown by a copy of a deed for the property or by reference to the most recent tax roll, accompanied by an attestation by the owner that the ownership information provided is and remains true and correct.
- 7. Attestation that property taxes on the parcel on which the STR is to be located are paid in full.
- 8. The number of bedrooms in the dwelling.
- 9. The number of bedrooms in the dwelling to be made available for short-term rental.
- 10. Attestation that the Owner is familiar with and agrees to comply with the requirements of this chapter.
- 11. The application shall be accompanied by certified mail receipts demonstrating that the notice of intent to operate a short-term rental and applicable contact information have been provided to abutting property owners in accordance with subdivision C of this section.
- 12. The Town Board may, by resolution, require additional information to be provided on

the application form.

C. Conditions of permit issuance.

1. Prior to the issuance of an initial short-term rental operation permit, the applicant shall provide notice of the Owner's intent to operate a short-term rental and the name and contact information of the STR Designated Contact and back-up to the owners of every property that both abuts the property on which the STR is to be located, including diagonally or across a road or street, and is also within five hundred feet of the dwelling in which the STR is located.
2. Permits are valid for one year from date of issuance and must be renewed annually for continued operation of the STR.
3. Permits are not-transferable and are rendered null and void upon any change in ownership of the subject property.
4. If the STR is to be located in an accessory dwelling, the accessory dwelling and principal dwelling to which it is accessory must be owned by the same person or entity.
5. Renewal of a valid permit may be made no earlier than sixty days before, nor later than sixty days after, expiration of the current permit, by submission of a copy of the expiring permit accompanied by an attestation stating the following:
 - (a) The total number of days the subject dwelling was rented as a short-term rental during the term of the expiring permit;
 - (b) That all application information applicable to such permit remains correct or has been updated to be correct.
 - (c) Any other renewal or application shall be treated as a new and original application subject to all application provisions including notice to abutting landowners.
6. Each application or renewal shall be subject to a non-refundable application fee in an amount to be set by resolution of the Town Board.

187-3. Requirements of owners and operators.

Every short-term rental operating permit issued pursuant to this chapter is deemed to contain the following conditions, whether or not stated on the permit document.

A. Operational requirements.

1. The owner must provide and maintain exterior trash containers of a type and capacity sufficient to contain and secure from animals all trash generated by renters.
2. Trash and recycling must be removed from the property on at least a weekly basis.
3. The maximum number of STR Guests shall be the lesser of a) two times the number of bedrooms to be made available for the STR plus two additional guests, or b) ten.

4. Every STR must include an STR guest who is at least 21 years of age.
- B. Required postings and communications to renters. The owner of a premises used for short-term rental shall conspicuously post in a prominent location in the short-term rental unit the following information:
 1. The County 911 address for emergency response to the rental premises.
 2. The 24-hour contact information for the owner, designated contact, and back-up contact.
 3. Instructions and schedules for disposal of trash and recycling.
 4. A copy of the current short-term rental permit and conditions applied to such permit.
 5. A copy of a Notice of Local Regulations, to be provided to the Owner by the Town upon issuance of an STR Permit.

187-4. Limitations upon number of rental days; Enhanced Short-Term Rental.

- A. Except as provided in this section, the maximum number of days that an Owner may rent to STR Guests at a permitted location during a one-year permit shall be one hundred twenty. Each day of short-term rental exceeding one hundred twenty within the one-year term of an STR operating permit, except as authorized by a valid Enhanced STR operating permit, shall be a violation.
- B. In the event a dwelling unit used for short-term rental is, or is expected to be, rented to one or more STR Guests for more than one hundred twenty days during a one-year permit period and is not exempt pursuant to section 187-5 of this chapter, such rental shall be designated an Enhanced Short-Term Rental (Enhanced STR) and shall be required to obtain an STR operating permit authorizing Enhanced STR and be subject to all requirements applicable to an Enhanced STR.
- C. No Short-Term Rental Operating Permit shall be issued by the Town for Enhanced STR unless a valid special use permit and site plan approval has been issued and remains in effect for such use.
- D. Any STR permit issued to an Enhanced STR shall immediately terminate and become void upon the termination or revocation of the special use permit or site plan approval under which the STR operates.

187-5. Exempt rentals.

The following rentals are permitted and exempt from the requirements of this chapter, and rentals that are exempt under this subdivision are not counted toward the 120 day short-term rental maximum.

1. Short-term rental of a room or rooms in a dwelling unit in which the owner is in concurrent occupancy, or in an accessory dwelling unit and the owner is in concurrent occupancy in the principal dwelling on the parcel, and the owner is present overnight during the entire rental period. If the owner is a legal entity, the owner's concurrent occupancy requirement may be satisfied by a person who is a principal owner or officer of the owning entity.

2. Any property, dwelling, dwelling unit, or portion of a dwelling unit that is only rented out to a renter or group of renters for periods of thirty days or more.
3. A use classified as and permitted by the Town of Copake as a hotel, motel, campground, bed & breakfast, dormitory, resort hotel, lodge or ranch, farm stay, or other use allowed under the Table of Use Regulations, Table 2 of Chapter 232 of the Code of the Town of Copake.

187-6. Penalties for violation.

1. Operation an unregistered or unpermitted short-term rental in violation of this chapter shall incur a fine of \$250 for each month or part of a month in which such violation occurs. Such fine shall be waived for the first violation by an owner if the owner registers the rental premises within thirty days of notification by the Town of such non-compliance.
2. Operation of an unregistered or unpermitted short-term rental, in violation of this chapter, beyond thirty days after notification by the Town of the requirement to register and obtain a permit, shall be punishable by a fine of \$500 for each month or part of a month in which such violation occurs. An owner who fails to register after two notices from the Town shall be denied a permit to operate for a period of one year after the second thirty day grace period to register expires.
3. Operation of an unregistered or unpermitted short-term rental, in violation of this chapter, beyond thirty days after a second notification by the Town of the requirement to register and obtain a permit, shall be punishable by a fine of \$250 for each day in which such violation occurs.
4. The Town is authorized to take any lawful action, including injunctive action in a court of competent jurisdiction, to prevent or terminate any unregistered or unpermitted Short-Term Rental.
5. Violation by a registered and permitted STR of any provision of this chapter shall be punishable by a fine of \$100 for the first offense, a fine of \$250 for a second offense, and a fine of \$500 for a third offense during the term of any one-year permit.
6. Each violation after the third during the term of a one-year permit by a registered and permitted STR shall result in a fine of \$500.

187-7. Suspension and non-renewal of STR permit.

- A. For purposes of this subdivision, a non-compliance incident is 1) any violation of this chapter, 2) any violation of Chapter 101 of the Code of the Town of Copake (Unsafe Buildings), Chapter 129 of the Code of the Town of Copake (Fire Prevention and Building Construction), or the Uniform Fire Prevention and Building Code or the Property Maintenance Code of the State of New York, occurring on the premises of the STR, or 3) any violation of Chapter 160 of the Code of the Town of Copake (Noise) committed by

one or more STR Guests and occurring on the premises of the STR.

B. The occurrence of three non-compliance incidents during the one-year term of an STR permit shall result in a suspension of the STR permit and right to operate.

1. The first such suspension within a period of two years shall be for three months.
2. If a second suspension is imposed within two years of the imposition of a prior suspension, such second suspension shall be for a period of one year.
3. Imposition of a suspension shall not extend the expiration date of the permit, which shall remain one year from the date of issuance.
4. No STR permit may be renewed during a period of suspension imposed pursuant to this subdivision.

§ 10. Statement of Authority

This local law is enacted pursuant to the authority of Article 16 of the New York Town Law and the New York Municipal Home Rule Law, including but not limited to M.H.R.L. sections 10, 20 and 27, and the general police powers of the municipality.

§ 11. Severability

If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 12. Effective Date

This local law shall become effective immediately upon filing with the Secretary of State.