TOWN BOARD OF THE TOWN OF SANTA CLARA

DATE: _____, 2023

RESOLUTION NO.:_____ OF 2023

INTRODUCED BY: _____

SECONDED BY: _____

RESOLUTION ADOPTING PROPOSED LOCAL LAW No. 1 OF 2023 TO REGULATE SHORT-TERM RENTALS OF RESIDENTIAL PROPERTY IN THE TOWN OF SANTA CLARA

WHEREAS, both nationally and in the Town of Santa Clara the short-term rental of residential properties to visitors and vacationers is increasing significantly, and

WHEREAS, such short-term rentals can help property owners defray the costs of owning their properties but can also have detrimental effects on neighboring properties if not managed appropriately, and

WHEREAS, the Santa Clara Town Board (the "Town Board") is considering adoption of a Local Law which would amend the Town Code to enact regulations governing the short-term rental of residential properties within the Town, to protect against adverse effects from short-term rentals while allowing them under appropriate circumstances, all for the benefit of the health, safety and welfare of Town residents, visitors and vacationers, and

WHEREAS, at the Town Board's request, the Town's Planning Board engaged in an extensive process to consider and discuss the potential regulation of short-term rental of residential properties, which process included consultation with the Town's Code Enforcement Officer to obtain his thoughts and comments, and the Planning Board also solicited input from the Town residents and property owners about potential regulation of short-term rental of residential properties, and

WHEREAS, with the benefit of comments and input from the Code Enforcement Officer, property owners and the public, the Planning Board discussed and debated potential regulations to govern short-term rental of residential properties, and the Planning

Board prepared a draft of regulations to govern such rentals, which the Planning Board provided to the Town Board, and

WHEREAS, the Town Board carefully considered and discussed and debated the draft regulations provided by the Planning Board, received public comment on them at a Public Hearing held on February 10, 2022, and then made various revisions to them, thereby creating proposed Local Law No. 1 of 2023, and

WHEREAS, on June 8, 2023, the Town Board held a meeting at which it opened a Public Hearing with respect to proposed Local Law No. 1 of 2023 after compliance with applicable notice requirements, and the Town Board took written and spoken comments on the proposed Local Law, and the Town Board then duly closed the Public Hearing on that same date, and

WHEREAS, the Town Board has discussed and deliberated about proposed Local Law No. 1 of 2023, and has concluded that its adoption to regulate the short-term rental of residential properties would help preserve the health, safety and welfare of Town residents, visitors and vacationers and would therefore be in the best interests of the Town,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board hereby approves and adopts Local Law No. 1 of 2023, in accordance with Section 130 of New York State's Town Law and Section 10 of the New York State Municipal Home Rule Law, and be it

FURTHER RESOLVED, that the Town Board hereby authorizes and directs the Town Clerk to file Local Law No. 1 of 2023 with the New York Department of State in accordance with the provisions of the Municipal Home Rule Law and acknowledges that the Local Law will take effect immediately upon filing by the Department of State, and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately.

The question of the adoption of this Resolution was duly put to a vote on roll call which resulted in votes by each Town Board member as follows:

AYES:

NAYS:

ABSENT:

The Resolution was declared duly adopted by the Town Board.

LOCAL LAW NO. 01 OF 2023

A LOCAL LAW REGULATING SHORT-TERM RENTALS OF RESIDENTIAL PROPERTY IN THE TOWN OF SANTA CLARA

Be it enacted by the Santa Clara Town Board as follows:

Article A. Title

This local law shall be known as and may be cited as "Local Law No. 01 of 2023 Short-Term Rentals" which, among other provisions, requires property owners to obtain a Short-Term Rental Permit from the Town of Santa Clara in order to continue or commence operation of a Short-Term Rental.

Article B. Authorization

The adoption of this Local Law is in accordance with Section 130 of New York Town Law and Section 10 of the New York Municipal Home Rule Law.

Article C. Legislative Intent and Purpose

1) The Town recognizes that it would be beneficial for the Town to control and regulate the use of Short-Term Rentals within the Town of Santa Clara. The provisions of this section are intended to preserve and protect the health, character, safety and general welfare of the unique rural residential property within the Town, mitigating the adverse effects of Short-Term Rentals and further addressing the welfare of Short-Term Renters.
2) Short-Term Rentals are recognized as a privilege not a right.

Article D. Application

This Local Law shall apply throughout the Town of Santa Clara to any residential property used for Short-Term Rental purposes. This Local Law shall not apply to, nor shall it be used to create Tourist Accommodations as defined in the Town of Santa Clara Land Use Code. Property rented in accordance with this Local Law shall not constitute a Tourist Accommodation thereunder.

Article E. Reserving Right

The Town of Santa Clara reserves the right to adopt rules and regulations to carry out the provisions and purposes of this Local Law by Resolution of the Town Board.

Article F. Definitions

1) **Daytime Guest –** a person, other than an Occupant, invited by an Occupant to be present at the Short-Term Rental Property anytime between the hours of 8 A.M. and 10 P.M.
2) **Dwelling Unit -** A building or portion thereof providing complete living facilities, or access thereto, for one or more persons.

3) **Short-Term Rental/Short-Term Rental Unit –** Any Dwelling Unit or portion thereof rented for compensation in exchange for lodging for a period of less than thirty (30) consecutive days. This may include any house, bedroom, guest house, cottage, cabin, accessory dwelling, apartment, condominium or any other structure or portion thereof providing lodging.
4) **Enforcement Officers/Code Enforcement Officers** – An individual appointed by the Town Board whose duty and authority is to administer and enforce the provisions of the Short-Term Rental Law and any other Local Law as may be designated by the Town Board.
5) **Short Term Renter/Occupant** – Any person (including children) located on the Short-Term Rental Property between the hours of 10 P.M. and 8 A.M.
6) **Short-Term Rental Owner** – All persons or entities having an ownership interest in a Short-Term Rental Property.
7) **Short-Term Rental Property** – The entire area which is under the ownership or control of the Short-Term Rental Owner including the parcel(s) or land on which one or more Short-Term Rental Dwelling Unit(s) is/are located. If the Short-Term Rental Owner owns contiguous parcels used for Short-Term Rental Purposes, the contiguous parcels shall be together deemed one "Short-Term Rental Property" for purposes of this Local Law.

Article G. Presumption of Dwelling Unit as Short-Term Rental Property

1) The presence of the following shall create a presumption that all or a part of the property is being used as a Short-Term Rental:
    a. All or a part of the property is offered for lease on a short-term rental website, including but not limited to, Airbnb, Home Away, VRBO, Adk by Owner or Real Estate Agency, for a rental period of not more than thirty (30) days and/or

    b. All or a part of the property is offered for lease for a rental period of not more than thirty (30) days 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.

Article H. Short-Term Rental Regulations

1) Except as otherwise provided hereunder, Owners shall not use their property as a Short-Term Rental without first obtaining a Short-Term Rental Permit.

2) A Short-Term Rental Permit shall be valid for two (2) years and must be renewed at least thirty (30) days prior to the expiration of the current Permit if the property is to continue to operate as a Short-Term Rental.

3) The Short-Term Rental Permit is not transferable to a new owner. The new owner of the premises subject to a Short-Term Rental Permit must file a new Permit application.
4) No Short-Term Rental Property may be rented for Short-Term Rental purposes for greater than a total of sixty (60) days in any calendar year.

5) Short-Term Rental Permits are restricted to existing residential structures on the effective date of this Local Law. Structures that are not fully constructed and have not received a Certificate of Occupancy as of the effective date of this Local Law shall not be used for Short-Term Rental purposes.

6) The nonrefundable application fee for a Short-Term Rental Permit may be established from time-to-time by Resolution of the Town Board and may include a fee schedule based upon the number of Short-Term Rental Units on a Short-Term Rental Property.

7) The maximum number of overnight Occupants for any Short-Term Rental Unit shall not exceed two (2) people per bedroom in the Short-Term Rental Unit plus two (2) additional people. For example, a two-bedroom Short-Term Rental Unit would have a maximum overnight occupancy of six (6) Occupants and a three-bedroom Short-Term Rental Unit would have a maximum overnight occupancy of eight (8) Occupants.

   Provided, however, that the total number of overnight Occupants per Short Term Rental Until shall not exceed ten (10) Occupants regardless of the number of bedrooms, and further provided that the total number of overnight Occupants at any Short-Term Rental Property shall not exceed thirty (30) Occupants regardless of the number of Short-Term Rental Units and/or bedrooms on the Short-Term Rental Property.

8) The maximum combined number of overnight Occupants and Daytime Guests allowed to be present at any single Short-Term Rental Unit between 8 AM and 10 PM shall be limited to no more than twice the maximum overnight occupancy for the Short-Term Rental Unit as set forth at Article H (7). Provided further that the maximum combined number of overnight Occupants and Day Time Guests permitted on any Short-Term Rental Property between 8 AM and 10 PM shall not exceed thirty (30) people regardless of the number of Short-Term Rental Units and/or bedrooms on the Short-Term Rental Property.

9) No commercial functions of any kind or nature are allowed on Short-Term Rental Properties under Short-Term Rental contract. The term "commercial functions" includes, but is not limited to, corporate events, weddings, wedding receptions and reunions. Short-Term Rental Permits are intended to allow for residential vacation lodging only.

10) Short-Term Rental Permits are subject to the following "Good Neighbor Policy":

    - The Short-Term Rental is in a residential area in the Town of Santa Clara and renters and guests shall be considerate of the residents in neighboring homes.
    - Renters and guests shall observe quiet hours between 10 P.M. and 8 A.M.
    - Recreational campfires must be attended.
    - Renters and guests to be compliant with the Laws of the State of New York and any Laws or Ordinances of the Town of Santa Clara.

11) The Short-Term Rental Owner shall be responsible for compliance by the Short-Term Renters/Occupants and Daytime Guests with the requirements relating to Short-Term Rentals set forth herein.

12) No Short-Term Rental Permit shall be issued without proof of registration and compliance with the Franklin County Room Occupancy Law.

13) Notwithstanding the forgoing, those properties with Short-Term Rental agreements in place on the date this Local Law takes effect shall be permitted to honor such existing agreements provided that:

a. The property owner applies for a Short-Term Rental Permit within sixty (60) days of this Local Law's effective

b. The existing agreements do not extend beyond one hundred eighty (180) days from this Local Law's effective date; and

c. The existing agreements otherwise comply with the provisions of the Local Law excepting the sixty (60) day limitation in any calendar year.

Article I. <u>Short-Term Rental Standards</u>

1) **Property Requirements** –

a. Property must comply with and meet all current New York State Uniform Fire Prevention and Building Codes.

b. There shall be at least one working smoke detector in each sleeping room and at least one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.

c. Evacuation procedures must be posted in each sleeping room to be followed in the event of a fire or smoke condition or upon activation of a smoke-detecting or other alarm device.

d. There shall be an ABC fire extinguisher, as required by code (on each floor and in the kitchen). Fire extinguishers shall be inspected prior to a renter occupying the property and no less than monthly by the Permit holder(s) to ensure each contains a full charge. A record of the date inspected and initialed by the Permit holder shall be maintained and made available to the Code Enforcement Officer upon request.

e. The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.

f. Exterior doors shall be operational for exit purposes at all times and all passageways to exterior doors shall be clear and unobstructed.

g. Electrical systems shall be in good condition, labeled, unobstructed and shall be visible for the Code Enforcement Officer during the Permitting process. Any defects found shall be corrected prior to Permit issuance.

h. All fireplaces shall comply with all applicable laws and regulations.

i. The property must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application.

j. A septic system at the property must meet all state requirements.

k. The septic system must have been pumped within four (4) years of any Permit application. Proof of pumping, estimation of septic tank capacity, and satisfactory inspection by a qualified septic disposal firm shall be provided to the Code Enforcement Officer. Once a Short-Term Rental Permit is issued, the septic system must be pumped at least once every four (4) years.

l. The water supply to the property must meet all State requirements.
m. Any signage must meet the Town of Santa Clara Land Use Code specifications.

2) Insurance Standards – All applicants and Permit holders must provide "Evidence of Property Insurance" and a "Certificate of Liability Insurance" indicating the premises is rated as a Short-Term Rental and maintain such insurance throughout the term of the Short-Term Rental Permit.

3) Trash/Garbage – 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, and placed where they are not clearly visible from the road except at approximate pick-up time. Trash receptacles shall be placed for roadside pick-up no sooner than 5 A.M. of the day of pick-up and shall be returned from the road no later than 7 P.M. of the day of pick-up.

4) Rental Contract – All Permit holders and Short-Term Renters must have a rental contract, which includes the following:

a. Maximum occupancy limits as provided on Short-Term Rental Permit;
b. Maximum number of vehicles allowed as provided on the Short-Term Rental Permit; and
c. "Good neighbor Policy" statement as set forth in Article H -10 herein.

Article J. <u>Short-Term Permit Application Requirements</u>

Applications for Short-Term Rental Permits may be obtained at the Town of Santa Clara Town Hall. The completed application shall be submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable Permit fee to be determined from time to time by resolution of the Town Board. The application shall include the following:

a. The signatures of all owners or designated agents.
b. A statement authorizing the Code Enforcement Officer to inspect the property prior to the issuance of any Permit to ensure compliance with all requirements and standards contained within this law.
c. An acknowledgement of present and ongoing compliance with the Short-Term Rental Standards as defined in this law, including but not limited to the demonstration of adequate off-road parking spaces for the proposed Short-Term Rental.
d. A List of each property owner and the name of any manager or management agency managing the property, including names, addresses, telephone numbers and email addresses of each.
e. 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 this Local Law. The contact person may be an owner, or an agent designated by the owner(s) to serve as a contact person and shall promptly respond to any communication from the Town Code Enforcement Officer, his designated agent and/or any complaining party. The contact person shall take all necessary steps to address and remedy any violation. In no event shall the response time exceed 24 hours.

f. An accurate site plan of the Short-Term Rental Property and suitable floor plans for each level of the Short-Term Rental Unit(s) that can be occupied measuring at least 8.5 inches by 11 inches, drawn to scale and certified by the applicant. The site plan and floor plans do not need to be prepared by a professional, but must include the following:

- Site Plan – the location of buildings, any other structures and required parking on the Short-Term Rental Property.
- Floor Plan: Basement – location of house utilities and all rooms including bedrooms, windows, exits and any heating/cooling units.
- Floor Plan: First floor – all rooms including bedrooms, windows, exits and any heating/cooling units.
- Floor Plan: Second floor - all rooms including bedrooms, windows, exits and any heating/cooling units.
- Floor Plan: Attic (if present) – all rooms including bedrooms, windows, exits and any heating/cooling units.

g. A statement that none of the owners of the subject property have had a Short-Term Rental Permit revoked within the previous year for any rental properties owned individually or together with others.

Article K. <u>Procedure Upon Filing Application</u>

1) Short-Term Rental Permit applications shall be filed with the Town of Santa Clara Code Enforcement Officer with all supporting documentation and nonrefundable Permit fee as provided for in Article H (6). Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:
   a. The application or required documentation was not included or the full permit fee was not paid.
   b. A previously issued Short-Term Rental Permit was revoked within the past year and defects and/or violations have not been corrected and inspected by the Code Enforcement Officer.

2) Upon the Code Enforcement Officer's acceptance of the completed Permit application, all documents and information required by this Section and the permit fee, the Code Enforcement Officer shall have the right to conduct a property inspection to certify and approve that all Short-Term Rental requirements have been met. The Short-Term Rental owner shall cooperate with a timely inspection not to exceed thirty (30) days from the acceptance of the application.

3) The Code Enforcement Officer may deny, approve, or approve with conditions any Short-Term Rental Permit application. Within 10 days of the inspection set forth in Article K (2) above, the Code Enforcement Officer will notify the property owner in writing as to whether the Short-Term Rental Permit application was denied, approved, or approved with conditions. If the application is denied, the Code Enforcement Officer shall set forth the reason(s) for the denial.

4) Upon approval of any Short-Term Rental application by the Code Enforcement Officer, a Short-Term Rental Permit will be issued. Short-Term Rental Permits issued pursuant to this Section shall state the following:

a. The Names, addresses and phone numbers of each person or entity that has an ownership interest in the Short-Term Rental property.

b. The name address and phone number of a primary contact person who shall be available during the entire time the Short-Term Rental property is being rented.

c. The maximum occupancy and maximum vehicle limits for the Short-Term Rental Property.

d. Identification of the number of and location of parking spaces available.

e. Any conditions imposed by the Code Enforcement Officer on the Short-Term Rental Permit which are reasonably related to and consistent with the purpose of this Local Law.

Article L. <u>Continued Compliance and Display of Permit</u>

1) Short-Term Rental Permits are subject to continued compliance with the requirements of these regulations.

2) The Short-Term Rental Permit, maximum occupancy limit, maximum parking, contact form and the standards set forth in this Local Law shall be prominently displayed inside and near the front entrance of every Short-Term Rental Unit.

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 changes in the information displayed on the permit or changes in the information that was provided with the Permit application. 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 Owner must conspicuously display the Short-Term Rental Permit number in all advertisements for the applicable Short-Term Rental.

Article M. <u>Application for Renewal Permit</u>

1) Renewal of a Short-Term Rental Permit will be granted for an additional 2-year term if the following conditions are met:

a. Application for renewal of the Short-Term Rental Permit shall be made at least thirty (30) but not more than ninety (90) days prior to expiration of current Permit and requires payment of renewal fee to be set from time-to-time by Town Board Resolution.

b. At the time of application for renewal, the owner or designated agent must present the previous permit for Short-Term Rental.

c. The property must have undergone an inspection performed by the Code Enforcement Officer.

d. Any violations must be remedied prior to renewal of a Permit for Short-Term Rental.

Article N. <u>Violations and Penalties</u>

1) Violations of this Section or of any Short-Term Rental Permit issued pursuant to this Section shall be subject to enforcement and penalties prescribed in this chapter.
2) If the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this Local Law or of any Short-Term Rental Permit issued pursuant to this Local Law, the Code Enforcement Officer shall promptly record such complaint and investigate the report thereon. If the Code enforcement Officer determines there is a violation of this code, the Code Enforcement Officer may take any or all of the following actions:
    a. Issue a warning.
    b. Attach conditions to the existing Short-Term Rental Permit.
    c. Require corrective action that remedies the violation(s). The corrective action must be completed and approved within 30 days of Notice from the Code Enforcement Officer or the owner risks revocation of the Short-Term Rental Permit.
    d. Suspend the Short-Term Rental Permit. The Notice of Suspension shall be provided to the property owner and a copy filed with the Town Clerk.
    e. Revoke the Short-Term Rental Permit. Should a Permit be revoked, in addition to losing all rental privileges under the current Permit, all owners of the Short-Term Rental are prohibited from obtaining a Short-Term Rental Permit on the property for one (1) year after the date of revocation. The Code Enforcement Officer shall send Notices of Revocation to property owners and shall file a copy with the Town Clerk.
    f. Issue a court appearance ticket for violation of a Town law.

3) In determining whether to take any of the noted actions the Code Enforcement Officer shall consider the following:
    a. The proof substantiating the violation.
    b. The nature and seriousness of the violation.
    c. The prior compliance history of the permit holder.
    d. The cooperation of the permit holder in taking corrective action.

Article O. <u>Grounds for Suspension or Revocation of Permit</u>

The Code Enforcement Officer may immediately suspend or revoke a Short-Term Rental Permit based on any of the following grounds:

1) Applicant has falsified or failed to provide information in the application for a Permit or the application for Permit renewal.
2) Applicant failed to meet or comply with any of the requirements of this Chapter.
3) Owner is in violation of any provision of the Code of the Town of Santa Clara as related to the Short Term Rental Property.
4) Owner has violated any provision of the Penal Code of the State of New York, which violation occurred at, or related to the occupancy of the Short-Term Rental Property.
5) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

Article P. <u>Appeals Process</u>

1) Appeals of the Code Enforcement Officers denial, conditioning, suspension or revocation of a Short-Term Rental Permit shall be made to the Town of Santa Clara Town Board.

2) Decisions and determinations made by the Code enforcement Officer under this Local Law shall be made in writing and provided to the Owner. Said decision/determination may be appealed to the Town Board within thirty (30) days of the Owner's receipt of the decision. The decision/determination appealed from shall be stayed while the appeal is pending. The Town Board shall have the powers to reverse, affirm or modify wholly or partly any order, requirement, decision or determination.

3) Any owner who wishes to appeal the decision or determination made by the Code Enforcement Officer shall make a written request, within thirty (30) days of the Owner's receipt of the decision or determination, for a hearing to the Town Board which shall endeavor to hear the appeal within forty-five (45) days of the request. At the hearing the Board shall not be bound by the strict rules of evidence, including reliable hearsay evidence offered by the property owner, any complaining party, the Code Enforcement Officer, and any other witness with relevant evidence. The Town Board shall make its decision within ten (10) business days of the hearing.

Article Q. <u>Penalties for Offenses</u>

1) It shall be unlawful for any person, association, firm, company or corporation to violate any provisions of the short-Term Rental Law. It shall also be unlawful for any person, association, firm, company or corporation to own, occupy or operate any property in violation of this Short-Term Rental Law.

2) Whenever it is found that there has been a violation of this Short-Term Rental Law, or any rule or regulation adopted pursuant to this Short-Term Rental Law, a violation notice and/or appearance ticket or summons and complaint may be issued to the person, association, firm, company or corporation in violation thereof.

3) The Code Enforcement Officer or her/his authorized assistants or Deputies shall have the authority, pursuant to the Criminal Procedure Law, to issue an appearance ticket or to issue a summons and complaint, subscribed by him, directing a designated person to appear in Town Court at a designated time in connection with the commission of a violation of this Short-Term Rental Law or any order hereunder.

4) Any person, association, firm, company, corporation which violates any provision of this Local Law or assists in the violation of any provision of this Local law shall be guilty of a violation punishable:

   a. By a fine or civil penalty of not less than $350.00 and not exceeding $1,000.00 for a first offense.

   b. By a fine or civil penalty of not less than $1,000.00 and not exceeding $3,000.00 for a second offense both of which were committed within a period of five (5) years.

   c. Each week's continued violation constitutes a separate violation and is subject to the imposition of a separate penalty.

5) A civil action or proceeding in the name of the Town of Santa Clara, New York, may be commenced in any Court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Short-Term Rental Law or any rule or regulation adopted pursuant hereto. Such a remedy shall be in addition to penalties otherwise prescribed by law and may be commenced with the consent of a majority of the Town Board.

6) No remedy or penalty specified in this Local Law shall be the exclusive remedy or penalty available to address any violation described in this Section, and each remedy or penalty specified in this Section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section. Any remedy or penalty specified in this Local Law may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section.

Article R. Severability

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

Article T. Effective Date

This Local law shall take effect upon filing in the Office of the New York State Secretary of State or as otherwise provided by law.