

RESOLUTION No. 2023-016

Introducing Local Law No. 5 of 2023 Amending Chapter 230 of the Village Code Entitled “Zoning” to Establish Rules and Regulations for Short-Term Rentals

At a meeting of the Village Board of Trustees of the Village of Millbrook (“Village Board”), held at the Village Fire House, 20 Front Street, Millbrook, New York on the 13th day of December, 2023, at 6:00 p.m., Village Mayor, Tim Collopy called the meeting to order, and _____, seconded by _____ Trustee _____, moved the following resolution, to introduce the following proposed local law, to be known as Proposed Local Law No. 5 of 2023, entitled “A Local Law Amending Chapter 230 of the Village Code entitled ‘Zoning’ to add a new Sub-Section 230-30(C) Containing Rules and Regulations for Short-Term Rentals” as follows:

BE IT ENACTED by the Board of Trustees of the Village of Millbrook (“Village Board”) as follows:

Section 1. Legislative intent: Section 230-30 of the Village of Millbrook Village Code entitled “Overnight accommodations” contains regulations for Inns and Bed-and-breakfast establishments but does not include any regulations for short-term rental accommodations such as those commonly advertised on websites such as Airbnb and VRBO. The Village Board has observed that more and more residents of the Village are either currently offering short-term rental accommodations or seeking to offer short-term rental accommodations in their homes. That combined with the need for both short-term and long-term housing in the Village has led the Village Board to determine it is in the best interest of the Village to amend the Village Code to establish regulations for such short-term rental accommodations. The Village Board now, therefore, wishes to amend Chapter 230 of the Village Code entitled “Zoning” to add a new subsection 230-30(C) to Section 230 entitled “Overnight accommodations” to establish rules and regulations for short-term rental accommodations in the Village.

Section 2. Section 230-30 of the Village Code entitled “Overnight accommodations” is hereby amended by adding a new Sub-Subsection 230-30(C) to read as follows.

“C. Short-Term Rentals.

(1) Purpose. The purpose of this section is to establish a set of regulations applicable to the short-term rental of residential real property in the Village of Millbrook. These regulations are in addition to all other provisions of this Chapter. In the adoption of these standards, the Board of Trustees of the Village of Millbrook (the “Village Board”) find that short-term rentals (“STRs”) have the potential to be incompatible with surrounding residential uses, especially when several are concentrated in the same area, thereby having the potential for a deleterious effect on the adjacent full-time residents. The Village Board recognizes the benefits of short-term rentals to allow homeowners to supplement their income to defray the cost of housing and to provide lodging for visitors to the Village. The Board of Trustees also find that STRs have the potential to have a detrimental effect on affordable housing and economic diversity in the Village, by removing dwelling units from the long term rental market and driving up demand for the limited remaining housing supply. This can result in fewer available units and increased prices or rents for those units that are available. Special regulation of these STR uses is necessary to ensure that they will be compatible with surrounding residential uses, protect the health, safety and welfare of Village residents and will not act to harm and alter the neighborhoods they are located within.

(2) Definitions.

- a. Short-Term Rental - A single-family dwelling or two-family dwelling or portion thereof, or an accessory apartment, offered for rent or lease, for an occupancy of fewer than thirty-one (31) consecutive days, the rates for which include lodging only, and no other commercial services are offered. A qualifying property is limited to the applicant's Primary Residence. The term “short-term rental” does not include Bed and Breakfast, Group Home, Hotel/Conference Center, or Inn, as regulated

by the Village of Millbrook Zoning Code.

- b. Hosted Short-Term Rental – A Short-Term Rental where the owner is present on the property overnight during the period when guests are on-site for the short-term rental.
- c. Non-Hosted Short-Term Rental – A Short-Term Rental where the owner is not present on the property during the period when guests are on-site for the short-term rental.
- d. Primary Residence – the domicile and principal dwelling that a person inhabits and resides in for at least six (6) months and one (1) day out of the year. If title to the property is not held in the name of a natural person, then the following shall apply: if the property is held in the name of a trust, the person that inhabits the residence must be one of the grantors or a beneficiary of the trust who has the right to reside in the dwelling on the property under the terms of the trust; if the property is held by an entity other than a trust (corporation, limited liability company, partnership, etc.), the resident must be a majority owner of the entity.
- e. Primary Resident – a natural person(s) who is the main occupant or occupants of the property containing the Short-Term Rental.
- f. Agent – Person designated by host to act on host’s behalf in the absence of the host.
- g. Host – the person who owns the property in the Village being offered for Short-Term Rental.

(3) Presumption of Dwelling Unit as Short-Term Rental Property.

- a. 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:
 - 1. All or part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb and VRBO, for a rental period of less than thirty-one (31) days; and/ or

2. All or a part of the property is offered for lease for a period of thirty-one (31) days or less through any form of advertising.
 - b. The foregoing presumptions may be rebutted by documentary evidence presented to the Village Code Enforcement Officer (“CEO”) sufficient to show that the premises is not operated as a Short-Term Rental.
- (4) All Short-Term Rental Permit and application fees shall be listed in the Village’s Master Fee Schedule. These may be changed from time to time by resolution of the Village Board of Trustees.
- (5) A short-term rental shall only be allowed subject to an application for a Permit issued by the CEO, renewable on a biennial basis, and in compliance with the following standards:
- a. Permits issued for short-term rentals shall be limited to a maximum of fifteen (15) within the Village on an annual basis. Applications will be accepted on a first-come, first serve basis until fifteen (15) permits are issued. Subsequent applications will be placed on a waitlist. If and when there are fewer than fifteen (15) Permits, the waitlist will be utilized starting with the application that has been on the waitlist the longest amount of time.
 - b. Permits shall be issued to a specific Primary Resident and are not transferrable or assignable. A Primary Resident is not eligible to possess more than one STR Permit. The term of a Permit shall be two (2) years.
 - c. The property shall be designed, maintained, and operated to preserve and complement the residential appearance of the site and the existing character of the surrounding area. There shall be no change permitted to the residential character of the outside appearance of the building.
 - d. The Host, for Hosted STRs, or, the Hosts’ Agent as listed on the Permit for Non-Hosted STRs, must be available at all times to respond in person, on site, within one (1) hour of notification to any issues that may arise regarding the condition, safety, operation, or conduct of guests of the STR. The contact information for the Host and/or Host’s Agent shall be

provided to the Village via the Short-Term Rental Application at time of submission, and the Permit holder shall update this contact information as needed during the term of the Permit to ensure it is accurate and up to date.

- e. There shall be no more than six occupants as lodgers of the STR at any given time, with a maximum of two occupants per bedroom, or if not on municipal water or sewer, the maximum capacity shall be determined by the septic capacity established by the Department of Health, not to exceed two occupants per bedroom. Maximum occupancy does not include children under five (5) years of age.
- f. The guest bedrooms of the STR shall be limited to the principal dwelling or one accessory building on the property, but never both. Any guest bedroom in an accessory building shall have access to sanitary facilities within that accessory building approved by the applicable authority.
- g. The owner shall collect and preserve registration records for a minimum of three (3) years.
- h. Parking shall be consistent with Section 230-16 and the Table set forth in Section J.(1) of Section 230-16 of the Village Code. Any required additional parking shall not be allowed in front of the principal dwelling by expanding use of an existing driveway.
- i. A copy of the Permit must be prominently displayed within the interior of the STR during the duration of its validity. The availability of the STR to the public shall not be advertised on the premises. The Village Permit number must be included in the listing.
- j. An annual satisfactory inspection from the CEO is mandatory prior to issuance of a Permit. The owner shall arrange for and schedule such inspection directly with the CEO and give reasonable access for inspections to be conducted to ensure compliance with the provisions of the Village of Millbrook Code, the NYS Uniform Fire Protection and Building Code and Life Safety Code.

- k. All STR guests are subject to the provisions of Section 230-14 of the Village Code, the Performance Standards, and of the enforcement provisions of Section 230-60. The Host or Agent is responsible for informing each guest of these provisions.
- l. The STR property must comply with and meet all applicable NYS Uniform Building Codes.
- m. There shall be one working smoke detector in each sleeping room and 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.
- n. There shall be a five (5) pound ABC fire extinguisher 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 initialed by the Permit holder shall be maintained and made available to the CEO upon request.
- o. The house number shall be displayed both at the road and on the dwelling unit so that the house number is clearly visible from both road and the driveway.
- p. Electrical systems shall be in good operating condition, labeled, unobstructed and shall be visible for the CEO during inspections. Any defects found shall be corrected prior to Permit issuance. A current boiler or furnace service report, including a record of the date inspected, initialed by the Permit holder, shall be maintained and made available to the CEO upon request.
- q. Insurance standards- all STR Permit holders must provide Evidence of Property Hazard Insurance and a Certificate of Liability Insurance indicating the premises is rated for Short-Term Rental and maintain such insurance throughout the term of the Short-term Rental Permit. The

amounts for the insurance coverage shall be set by the Village Board as part of the Village fee schedule(s).

- r. Waste removal provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with covers at all times to prevent leakage, spilling, or odors, and placed where they are not clearly visible from the road except at approximate pickup time.
- s. STR guests and STR Permit holders must have a written rental contract, which includes the following:
 - 1. Maximum property occupancy;
 - 2. Maximum on-site parking provided; and
 - 3. Good Neighbor Statement stating:
 - 4. STR guests must be considerate of the residents in neighboring homes.
 - 5. STR guests are requested to observe quiet hours from 10:00 p.m. to 8:00 a.m.;
 - 6. All STR guests will be subject to New York Penal Law § 240.20 or any successor statute regarding disorderly conduct;
 - 7. Littering is illegal.
- t. Compliance and Penalties.
 - 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 Section and Article VII of this Chapter.
 - 2. If the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this Section or a violation of the conditions of any Short-Term Rental Permit issued pursuant to this Section, the CEO shall properly record such complaint and immediately investigate the report thereon. If the Code Enforcement Officer

determines there is a violation of this Section, the owners shall be notified in writing by both first class mail and certified mail, return receipt requested of said violations and the CEO may take any or all of the following actions:

- a) Impose additional conditions to the existing Short-Term Rental Permit.
- b) Suspend the Short-Term Rental Permit. The Notice of Suspension shall be provided to the property owner and a copy filed with the Village Clerk.
- 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) Issue a court appearance ticket for violation of a Village law.
- e) Revoke the STR Permit. Should a Permit be revoked, all owners of the property on which the STR exists are prohibited from obtaining an STR Permit on the property for a period of one (1) year after the date of revocation. The Code Enforcement Officer shall send Notices of Revocation to the property owners and shall file a copy with the Town Clerk.
- f) A property owner found not to be in compliance with any section of this law will be subject to a monetary civil fine in accordance with the schedule below, in addition to any and all applicable remedies and penalties found in Section 230-60 of the Village Code that do not conflict with this section.
 - i. A one thousand-dollar (\$1,000.00) fine will be assessed for the first offense.
 - ii. A two thousand-dollar (\$2,000.00) fine will be assessed

for the second offense, if it occurs within a year of the first offense.

- iii. A third violation within a year of the first offense will result in the revocation of the Permit.
- u. At the time of passage of this law, applicants operating a Short-Term Rental that is not the applicant's Primary Residence will be given a two-year grace period to meet this requirement (all other Permit requirements must still be met before an applicant will be approved and a Permit issued).
- v. Renewal of Permit.
 1. Permits will automatically expire after a two (2) year term but may be renewed prior to expiration for a subsequent two (2) year term by Permit-holders in good standing.
 2. Renewal Permits 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 no less than thirty (30) nor more than forty-five (45) days prior to expiration of the current Permit and be accompanied by the renewal fee.
 - 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 undergo a new inspection performed by the CEO.
 - d) Any violations must be remedied prior to renewal of a Permit for Short-Term Rental.
- w. Grounds for Suspension or Revocation of Permit.
 1. The Code Enforcement Officer may immediately suspend a Short-Term Rental Permit based on any of the following grounds:

- a) Applicant has falsified or failed to provide information in the application for a permit or the application for Permit renewal.
 - b) Applicant failed to meet or comply with any of the requirements of this Chapter.
 - c) Applicant is in violation of any provision of the Code of the Village of Millbrook.
 - d) Applicant has been found guilty by a court of law of a violation of any provision of the Penal Code of the State of New York, which violation occurred at the property on which the STR exists, or is related to the occupancy of the STR.
 - e) Any conduct on the property on which the STR exists, which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.
 - f) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.
- x. Appeals and Hearings. The property owner is entitled to appeal the Code Enforcement Officer’s determination to the Zoning Board of Appeals in accordance with Section 230-69 of the Village Code when a property owner’s application for a Short-Term Rental Permit or a Short-Term Rental Permit Renewal is denied or a Short-Term Rental Permit is revoked. A Notice of Appeal shall be filed with the Village Clerk and the Zoning Board of Appeals within 60 days of the Code Enforcement Officer’s filing of the denial or revocation with the Village Clerk.”

Section 3. Severability. Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section 4. All other ordinances or local laws of the Village of Millbrook which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law full force and effect during its effective period.

Section 5. Numbering for codification. It is the intention of the Village of Millbrook Board of Trustees and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Village of Millbrook; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6. This Local Law shall take effect as of the date of filing with the New York Secretary of State.

Mayor, Tim Collopy, advised the Board of Trustees that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this proposed local law. Trustee _____ offered the following resolution which was seconded by Trustee _____, who moved its adoption:

WHEREAS, on December 13th, 2023, Trustee _____ introduced this Local Law for the Village of Millbrook, to be known as “A Local Law Amending Chapter 230 of the Village Code entitled ‘Zoning’ to add a new Sub-Section 230-30(C) Containing Rules and Regulations for Short-Term Rentals.”

RESOLVED, that a public hearing be held in relation to the proposed Local Law as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Village Fire House, 20 Front Street, Millbrook, New York, on January 10th, 2024, at 6:00 o’clock, p.m., Prevailing Time, and that notice of said hearing shall be published in the official newspaper of general circulation in the

Village of Millbrook, by the Village Clerk, at least ten (10) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Board of Trustees of the Village of Millbrook will hold a public hearing at the Village Fire House, 20 Front Street, Millbrook, New York, on January 10th, 2024, at 6:00 o'clock, p.m., Prevailing Time, on Proposed Local Law No. 5 of the Year 2023, entitled "A Local Law Amending Chapter 230 of the Village Code entitled 'Zoning' to add a new Sub-Section 230-30(C) Containing Rules and Regulations for Short-Term Rentals."

TAKE FURTHER NOTICE, that copies of the aforesaid proposed Local Law will be available for examination at the office of the Clerk of the Village of Millbrook, at the Village Hall, 35 Merritt Avenue, Millbrook, New York between the hours of 8:00 a.m. to 12:00 p.m. and then between 1:00 p.m. to 3:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Millbrook, New York
 December 13, 2023

SARAH J. WITT, VILLAGE CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

Mayor Collopy	_____
Trustee Herzog	_____
Trustee Contino	_____
Trustee Doro	_____

Trustee Murphy

DATED: Millbrook, New York
December 13, 2023

SARAH J. WITT, VILLAGE CLERK
Village of Millbrook