

Local Law #__

License to Operate a Short Term Rental Unit

Month day 2005

1. **PURPOSE:** The purpose of Local Law #__ is to allow the homeowners of the Town of Otsego to provide short-term rental units, while at the same time, to protect the public interest, and to preserve the rural beauty and residential character of the Town. Homeowners may become licensed to operate a short term rental unit in a residential dwelling in the RA-1, RA-2, and HR districts subject to the following conditions:
2. **AUTHORIZATION:** The Town Board authorizes the Zoning Enforcement Officer (ZEO) to issue licenses to Town homeowners to operate short term rental units according to the provisions of this ordinance. Applications for a license to operate a short term rental unit shall be processed under the procedures set forth in this ordinance. The Town Board shall impose reasonable and appropriate conditions and safeguards to insure the public interest is not adversely affected, and to insure the operation of any short term rental unit is not in conflict with the Town Master Plan.
3. **INITIAL APPLICATION:** Applications for a license to operate a short term rental unit shall be available from either the ZEO or the Town Clerk. The application form and the initial application fee shall be uniform for all applicants. Applicants must file a separate application and provide a separate application fee and obtain a separate license for each dwelling unit to be used as a short term rental unit.
4. **APPLICATION PROCESS:** The ZEO shall inspect each short term rental unit to determine the level of occupancy permitted in that dwelling unit when considering the application. Each unit shall also be inspected by the Otsego County Codes Enforcement Officer to determine fire and safety code compliance. The ZEO shall approve the application if all of the following conditions are met. If the conditions are not met, the application shall be denied. The applicant may reapply for a license or may apply to the Town Board for review and public hearing.
 - a.
 - b. **Contact information:** The names, addresses and day/night telephone numbers of the owners and local managers must be included on the application.
 - c. **Fire and safety compliance:** The applicant shall attach a copy of the certificate of compliance issued by the County Codes Officer to the application.
 - d. **Parking:** Wherever possible, enough off street parking spaces must be provided to accommodate the occupancy level of the dwelling unit, generally one parking space for each four people housed. The parking spaces must be situated so as to be in keeping with the neighborhood. Vehicles shall not be parked on front lawns. Where off street

parking is not possible, street parking may be allowed in accordance with State DOT regulations.

e. **Occupancy:** Occupancy is limited to no more than nine (9) persons per dwelling unit unless further restricted by fire and safety codes. The Zoning Enforcement Officer may also limit the number of occupants to fewer than nine (9) in a specific dwelling unit based on the number, size, configuration, and furnishings of the bedrooms and/or sleeping rooms, and according to the provisions of state laws.

f. **Separately housed persons:** No person or persons may be housed separately and/or apart from the dwelling unit in any tent, trailer, camper, lean-to, recreation vehicle or other structure.

g. **Water and septic:** The source of the domestic water shall be stated on the application and the license. The septic system must be functioning, and the type, size, and location of the septic system, if known, shall also be stated on the application and the license. New and renewal license applications completed for 2009 shall require documentation that the septic system has been inspected and found to be working properly within the last five years, and the type, size, and location of the system shall be stated on the application. All new license applications after 2009 shall require documentation of inspection and proper functioning, as well as type, size, and location of the system.

h. **Inspections:** The ZEO and the County Codes Enforcement Officer have the right of entry for inspection to determine compliance with the conditions of the license. All short term rental units will be re-inspected by the ZEO on a rotating basis, with reasonable notice. The ZEO shall have the right of entry for unannounced inspection only when investigating a signed complaint.

i. **Fees:** All licenses for operating a short term rental unit are issued for a period of one (1) year. Each dwelling unit requires a separate application and license. The initial application fee is one hundred dollars (\$100) for the first short term rental unit on a parcel, and twenty five dollars (\$25) for an additional unit on the same parcel inspected at the same time. This initial application fee covers up to two visits by the ZEO. If there are have been no sustained unresolved legitimate complaints against the unit, and if there are have been no modifications to the unit, the license may be renewed without inspection. The fee for renewal without inspection is twenty-five dollars (\$25). If however, the specific unit has sustained unresolved legitimate complaints, the license shall not be renewed. If there have been modifications to the unit, renewal will require a new inspection. The fee for renewal with inspection is fifty dollars (\$50).

j. **Denied application:** If an application is denied, the applicant may correct any deficient conditions and reapply. The applicant may also apply to the Town Board for review and public hearing. A new inspection will be required if the applicant reapplies, and the application fee will be fifty dollars (\$50). Whenever an initial application or a renewal application is denied, the Zoning Enforcement Officer will provide the applicant

with a written list of deficient conditions, including a list of sustained unresolved legitimate complaints in the case of a denied renewal application. If a license lapses, a new inspection will be required for renewal and the renewal application fee will be fifty dollars (\$50).

k. **Existing violations:** If the property has any existing violations of this Town law or any other Town or State law, no license shall be issued until such violations are corrected.

l. **Display of licenses:** Copies of the license must be displayed in the dwelling unit in a place where it is easily visible to the occupants and in a window where it is easily visible from the street.

m. **Transfer of licenses:** Licenses for operation of a Short Term Rental Unit may not be assigned, pledged, sold or otherwise transferred to any other persons, businesses, entities or properties. The license belongs solely to the original applicant as it applies to a particular property, and shall remain in that applicant's name for the duration of the license.

5. ENFORCEMENT: Enforcement of this Town Law is the duty of the ZEO, who may be assisted by any other agencies having jurisdiction.

a. **Termination of licenses:** The Town Board may, after a public hearing, terminate an operating license during the period for which it was issued if the property or owner is found to be in material breach of the terms and conditions of the license or other conditions of this law.

b. **Unlicensed operation:** Any person, entity, business or corporation found to be providing short term rental units without a license issued by the Town of Otsego shall be determined to be in violation of this law.

6. COMPLAINTS. Complaints regarding the operation of a short term rental unit may be received by the ZEO or the Town Clerk. Complaints shall be forwarded to the owners and their local manager at their addresses of record by the ZEO. All correspondence from the owners and their agents shall be kept and maintained along with the license.

a. **Filing complaints:** A complaint of violation may be made by any aggrieved person or Town Official, including the ZEO. Such complaints shall include the following information:

1. The name, address, telephone number of the complainant.
2. The address of the offending property. The name, and day/night telephone numbers of the owner and local manager can be supplied by the ZEO if they are not known by the complainant.

3. A description of the nature of the alleged violation including reference to the provisions of the laws alleged to be violated.
4. The date(s) and time(s) of the alleged violations.

b. **ZEO action on receipt of complaint:** Upon receipt of a complaint of violation, the ZEO shall investigate to determine the presence of a violation, and upon finding to his/her satisfaction that a violation was or is currently occurring, he/she shall issue to the landowner and the local manager a notice detailing the alleged violation(s) as determined by the ZEO. Such notice shall also specify what corrective action is required of the property owner, and the date by which action shall be taken.

c. **Notice of non-compliance:** Notices required by this section shall be issued by the ZEO either by personal service to the landowner and the local manager or by certified mail to the address of the owner and local manager as shown on the license application.

d. **Non-compliance after notification:** If the landowner does not comply with corrective action by the date given by the ZEO, the Town may initiate procedures to revoke the license, or the Town may begin a criminal action against the landowner.

e. **Revocation of license:** Any time the ZEO deems it to be appropriate, he/she shall refer to the Town Board any landowners whom he/she believes to be in violation of this Local Law. The Town Board shall determine whether it shall revoke the license in question. A revocation of a license requires a public hearing by the Town Board. The referral to the Town Board may be done in addition to all other penalties allowed in Section 6b. of this Local Law.

7. VIOLATIONS:

a. **Non-compliance tickets:** The Zoning Enforcement Officer shall issue a ticket to any license holder who, after having been investigated for and notified of non-compliance, fails to become compliant with this Local Law by the end of the time period set by the Zoning Enforcement Officer.

b. **Penalties:** A violation of this local law is an offense punishable by a fine not exceeding three hundred fifty (350) dollars or imprisonment for a period not to exceed six months, or both, for conviction of a first time offense. Conviction of a second offense committed within a period of five years of the first offense, is punishable by a fine not less than three hundred fifty (350) dollars and not more than seven hundred (700) dollars, or imprisonment for a period not to exceed six months, or both. Conviction of a third offense committed within a period of five years of the first offense, is punishable by a fine not less than seven hundred (700) dollars and not more than one thousand (1000) dollars, or imprisonment not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers, generally, violations of this law or any of its provisions shall be considered an unclassified misdemeanor. Under Penal Law Section 55-10(2).

8. BEGINNING EFFECTIVE DATE:

This local Law shall be in effect beginning January 1, 2006. Applications for licenses will be accepted and processed beginning September 1, 2005.

9. DEFINITIONS

Bedroom: A room in a dwelling unit specifically furnished for sleeping. The room must have at least one operable window and must be separated from other rooms by a door.

Legitimate Complaint: A complaint lodged against a Short Term Rental Unit based on a specific item in this Local Law or in the Town's Land Use Law or in State Law.

Examples of legitimate complaints: "There are 12 people housed in the dwelling when the maximum allowed is only nine."(this Law). "The noise from the boom box was so loud last night that it rattled my windows."(Land Use Law). "The occupants were shooting off fireworks and bottle rockets."(State Law). Examples of nuisance (not legitimate) complaints: "I'm uncomfortable having strangers in the neighborhood." and "Their baby kept me up all night."(these are not prohibited by Local or State Laws).

Local manager: The person specifically named on the application and license who is responsible for the day to day operation of the Short Term Rental Unit, and who maybe contacted, day or night, if there is a problem at the Unit. The local manager may be the owner or an agent of the owner.

Short Term Rental Unit: A dwelling unit in any of the residential zoning districts which is rented or leased to individuals or families who occupy overnight accommodations for compensation for a period of less than 30 days. Occupancy is limited to no more than nine (9) persons per dwelling unit. Any dwelling which is rented or leased for a period of thirty days or more to individuals or families who then allow others to occupy the dwelling for periods of less than thirty days shall be considered a short term rental unit and will require a license for this use. Motels and hotels are excluded from this definition.

Sleeping Room: An interior room other than a bedroom having at least one operable window and furnishings that may serve to afford sleep to a person or persons, however, sleep shall not be the primary function of the room. Examples include a living room, family room, den or great room furnished with a futon or convertible couch.