

Draft: Revised 12/04/08 - Changes in yellow

LOCAL LAW NO. 1 OF THE YEAR 2009

SHORT TERM TRANSIENT RENTAL REGULATIONS

BE IT ENACTED by the Town Board of the Town of Milford, as follows:

SECTION 1 - Purpose: With the increase in tourism over the past several years in the Town of Milford and adjacent areas, there has been an increase in the number of property owners renting to tourists on a short term transient basis. The following local law imposes mandatory regulations and requirements on all Town of Milford property owners that desire to rent on a short term transient basis. The purpose of such regulations and requirements are to assure that the properties being rented meet certain minimum safety and regulatory requirements thereby protecting both the property owners, occupants of such housing and the residents of the Town of Milford.

SECTION 2 - Authority: This local law is enacted pursuant to the provisions of the Municipal Home Rule Law and the Town Law of the State of New York.

SECTION 3 - Title: The title of this local law shall be "LOCAL LAW NO. 1 OF THE YEAR 2009: SHORT TERM TRANSIENT RENTAL REGULATIONS"

SECTION 4 - Definitions and Application: As used in this local law:

(a) Bedroom: The definition of "bedroom" as used in this local law shall be analogous to and the same as it appears in the Property Maintenance Code of New York State.

(b) Dwelling Unit: The definition of "dwelling unit" as used in this local law shall be analogous to and the same as it appears in the Property Maintenance Code of New York State.

(c) Local manager: The person specifically named on the application and permit that is responsible for the day to day operation of the Short Term Rental Unit, and who may be contacted, day or night, if there is a problem at the Unit. The local manager may be either the owner or an agent of the owner. The local manager must reside or have a personal place of business in the confines of Otsego County or within thirty (30) miles of the Town of Milford Town Hall.

(d) Non-resident owners: Owners that reside outside of Otsego County.

(e) Parking Space: A parking space is an area at least ten (10) feet by twenty (20) feet with direct access or legal right-of-way to a public street or highway, intended for the temporary storage of motor vehicles. Off street parking shall not be utilized for any RV parking and/or camping unit during the permit period.

(f) Short-term Transient Rental: The rental or lease of any dwelling unit, for a period of thirty (30) days or less, to one entity. Maximum occupancy is limited to a maximum of two persons per bedroom, plus one person, unless further restricted by the Otsego County Code Enforcement Office. However, no more than nine (9) persons may occupy a dwelling unit. Any dwelling unit which is rented or leased for a period of thirty (30) days or more to individuals or families who then allow others to occupy the dwelling for periods of less than thirty (30) days shall be considered a short term rental unit and will require a permit for such use. Motels, hotels and bed & breakfasts are excluded from this definition.

(g) Renewal Applications: The process by which an individual who received a short term transient rental permit the previous year may apply for the short term rental permit for the next consecutive year. A renewal application will be accepted only when the applicant can document receipt of a short term transient rental permit the previous year.

(h) 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, 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.

SECTION 5 - AUTHORIZATION: The Town Board of the Town of Milford ('Town Board') authorizes the Town of Milford Zoning Enforcement Officer ('ZEO') to issue permits to property owners to operate short term transient rental units according to the provisions of this local law. Applications for a permit to operate a short term transient rental unit shall be processed under the procedures set forth in this local law. The Town Board shall impose reasonable and appropriate conditions and safeguards to insure the public interest and safety is not adversely affected.

SECTION 6 - APPLICATION: All property owners desiring to rent on a short term transient basis must comply with the regulations of this local law. However, nothing in this local law shall alter, effect, or supersede any regulations or requirements of the Town of Milford Zoning Ordinance, any regulations or requirements imposed by the County of Otsego, or any State or Federal regulations or requirements, and all property owners must continue to comply with such regulations or requirements.

SECTION 7 - FEE: A nonrefundable permit fee set by the Town of Milford Town Board for each short term transient rental unit shall be submitted with each new application and each annual renewal application.

SECTION 8 - APPLICATION FORMS: Applications for a permit to operate a short term transient rental unit shall be available from either the Town of Milford Zoning Enforcement Office or the Town Clerk. Applicants must file a separate application and tender a separate application fee and obtain a separate permit for each dwelling unit to be used as a short term transient rental unit.

SECTION 9 - APPLICATION PROCESS: (a) The initial permit application to operate a short term transient rental unit shall be submitted to the Town of Milford Zoning Enforcement Officer along with the applicable application fee. The applicant shall be notified of any additional information required within twenty (20) days upon receipt of the application and applicable application fee.

(b) The initial permit application must include the following:

i. Contact information: The names, addresses and day/night telephone numbers of the property owners and local managers must be included on the application.

ii. Fire and safety compliance: The applicant shall attach a true and complete copy of the current and valid certificate of compliance issued by the Otsego County Code Enforcement Office to the application.

iii. Parking: The number of off street parking spaces will be indicated on the application. Off street parking shall be provided to accommodate the occupancy of the structure, one parking space for each bedroom in the dwelling plus other parking as required in the Town of Milford Zoning Ordinance. Vehicles shall not be parked on front lawns.

iv. Occupancy: The occupancy level will be indicated on the application. Occupancy is limited to no more than two persons per bedroom plus one additional person, with a maximum of nine (9) persons per dwelling unit unless further restricted by fire and safety codes. The Otsego County Code Enforcement Office 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.

v. Water and septic: The source of the domestic water shall be stated on the application and the permit. The septic system must be functioning, and the type, size, and location of the septic system shall also be stated on the application. New permit applications shall require documentation from the Otsego County Code Enforcement Office, a licensed engineer or a New York State licensed home inspector, indicating that the septic system has been inspected and found to be currently working properly.

vi. Description: Either a floor plan or a brief description of each bedroom and sleeping room, including the dimensions of said rooms, occupancy of each room and the methods of ingress and egress (examples: doors and windows) shall be included with the application. The applicant shall submit a plat of the property showing approximate property boundaries and existing features, including buildings, structures, well, septic system, parking spaces, driveways, streets and neighboring buildings within two hundred (200) feet on property directly adjacent to the applicant's property.

vii. Garbage Removal: The applicant shall indicate the means by which garbage is removed from the property. If there is a dumpster located on the property, the location of the dumpster shall be depicted on the plat submitted with the application.

viii. House rules: The applicant shall submit a copy of the house rules.

ix. Maintenance: The applicant shall indicate the manner in which lawn maintenance, snow removal, and repairs to the dwelling unit shall be maintained during the permit period.

x. Jurisdiction: If a property owner does not reside or have a principal place of business in the confines of Otsego County, then he/she must designate the Local Manager, as an agent for the purpose of conferring criminal jurisdiction to the local criminal court upon the property owner. Service of an appearance ticket as defined in

the New York State Criminal Procedure Law upon the Local Manager, as agent, shall constitute good and sufficient service as if the property owner had been personally served within Otsego County.

xi. Insurance and Bed Tax: Applicant shall provide proof of insurance coverage and bed tax number.

(c) Upon receipt of the application and fee, the Town of Milford Zoning Enforcement Officer shall determine if the applicant has complied with all of the requirements of this local law. If the applicant has fully complied, then the Zoning Enforcement Officer shall issue the property owner a short term transient rental permit. However, if an applicant is required to obtain any other permits required by the Town of Milford, County of Otsego or State of New York in order to rent or lease their dwelling unit on a short term transient basis, then the Zoning Enforcement Officer shall not issue the applicant a permit under this local law without sufficient proof that such other requirements imposed by the Town of Milford, County of Otsego or State of New York have been satisfied. The Zoning Enforcement Officer shall have forty-five (45) days to determine whether the applicant has complied with the requirements of this law. Failure of the Zoning Enforcement Officer to act within forty five (45) days shall constitute an approval unless the applicant and the Zoning Enforcement Officer mutually agree to extend this time limit.

(d) Renewal permits: The applicant will provide the Town of Milford with any changes to the original underlying application for a Short Term Transient Rental Permit, together with such additional documentation as determined by the Zoning Enforcement Officer, all of which will be on forms prescribed by the Zoning Enforcement Office, along with the current application fee. The applicant will be notified within twenty (20) days of any required additional information. If the applicant has fully complied with the above, the Zoning Enforcement Officer shall issue the property owner a permit to operate a short term transient rental. Any applicant who applies for a short term transient rental permit, and did not hold a permit for the immediate prior year, shall be considered an initial applicant and not a renewal applicant.

SECTION 10 - INSPECTIONS: Each unit shall be inspected by the Otsego County Codes Enforcement Office to determine fire and safety code compliance. Proof of inspection in the form of the certificate of compliance must be included with the application form.

SECTION 11 - GENERAL PERMIT REGULATIONS: (a) Copies of the permit 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.

(b) The permit to operate a short term rental unit in any given year will expire on December 31.

(c) Rental permits for operation of a Short Term Rental Unit may be assigned, pledged, sold or otherwise transferred to any other persons, businesses, entities or properties upon written notification to the Town of Milford Zoning Enforcement Officer, indicating the name, address and telephone number of the new owner and local manager, if applicable, proof of insurance and bed tax number, as well as certification that the balance of the information required under Section 9(b) has not changed.

(d) All short term rental unit properties shall have posted on or about the inside of the front or main door of each dwelling unit a card listing emergency contact information. Such information shall include, but not be limited to: the name, address and phone number of the building owner, if local, or a local manager, and a second local contact person who will be available for problems/emergencies that may arise, and instructions on dialing 911 for emergency/fire/ambulance assistance. This information shall also be posted on the outside of the house near the main door or in a window where it is easily visible from the street. A local agent shall be able to respond in person within one hour.

(e) All applicants, both renewal and new, must notify, in writing, via regular first class mail, all property owners within a 200 foot radius of the proposed short term rental unit and must include in such notification the name, phone numbers and addresses of the property owner and at least a total of two local contact persons who will be available for problems/emergency that may arise and who neighbors may contact in the event of complaints or problems with the short term rental unit. This will not serve as an official complaint.

(f) In all zoning districts, 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 non dwelling unit.

SECTION 12 - COMPLAINTS: (a) Complaints regarding the operation of a short term transient rental unit shall be in writing and may be received by the Zoning Enforcement Officer or the Town Clerk.

(b) Upon receipt of a complaint of violation, the Zoning Enforcement Officer 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 property owner and the local manager a notice detailing the alleged violation(s) as determined by the Zoning Enforcement Officer. Such notice shall also specify what corrective action is required of the property owner, and the date by which action shall be taken.

(c) Notices required by this section shall be issued by the Zoning Enforcement Officer either by personal service to the property owner and/or the local manager or by certified mail to the address of the property owner and/or local manager as shown on the permit application.

(d) If the landowner does not comply with corrective action by the date given by the Zoning Enforcement Officer, the Town of Milford may initiate procedures to revoke the permit, or the Town of Milford may begin a criminal action against the property owner or pursue any other relief permitted by law.

(e) Any time the Zoning Enforcement Officer deems it to be appropriate; he/she shall refer to the Town of Milford Town Board any property owners whom he/she believes to be in violation of this Local Law. The Town of Milford Town Board shall determine whether the permit in question shall be revoked. A revocation of a permit requires a public hearing by the Town of Milford Town Board. The referral to the Town of Milford Town Board may be done in addition to any other penalties permitted by law.

SECTION 13 - VIOLATIONS: (a) Any person, entity, business or corporation found to be providing short term transient rental units without a permit issued by the Town of Milford, shall be determined to be in violation of this law.

(b) The Zoning Enforcement Officer shall issue a ticket to any dwelling owner that, 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. In the event the health and safety of individuals is at risk, the Zoning Enforcement Officer shall take immediate action to rectify the violation, including but not limited to, initiating proper legal steps to discontinue the operation of said rental unit and the removal of the occupants from the premises until such time the violation is rectified.

(c) A violation of this local law is an offense punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or

imprisonment for a period not to exceed six (6) 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 dollars (\$350.00) and not more than seven hundred dollars (\$700.00), or imprisonment for a period not to exceed six (6) months, or both.

Conviction of a third or subsequent offense committed within a period of five years of the first offense is punishable by a fine not less than seven hundred dollars (\$700.00) and not more than one thousand dollars (\$1,000.00), or imprisonment not to exceed six (6) months, or both.

For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

Compliance with this chapter may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this chapter shall also be subject to a civil penalty of not more than \$500, to be recovered by the Town OF Milford in a civil action. In the event that the Town of Milford is required to take legal action to enforce this chapter, the violator will be responsible for any and all necessary costs relative thereto, including attorneys' fees, and such expense shall be charged to the property so affected by including such expense in the next annual tax levy against the property.

SECTION 14 - ENACTMENT: This Local Law shall take effect immediately.

SECTION 15 - SEVERABILITY: 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 judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section of part thereof directly involved in the controversy in which such judgment shall have been rendered.

RESOLVED BY _____ and seconded by

STATE OF NEW YORK
COUNTY OF OTSEGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

_____, 2009

Richard A. Harlem
Town Attorney
Town of Milford