

TOWN OF SHANDAKEN
LOCAL LAW NO. 3 OF 2024
IMPOSING A MORATORIUM ON THE ISSUANCE OF SHORT-TERM RENTAL LICENSES IN THE
TOWN OF SHANDAKEN
Followed by Local Law (1&2) Updated STR Law

Sec.1 Title

This Local Law shall be known as “Local Law No.3 of 2024: A Short-Term Rental Moratorium Law of the Town of Shandaken.”

Sec. 2 Purpose and Findings

The Town Board Finds that without adequate regulations governing the rules applicable to Short Term Rental Licenses and Short-Term Rentals, it shall be detrimental and have adverse impacts on the Community in general and may have a detrimental effect on the value of properties in the Town of Shandaken.

The purpose of this moratorium is to allow the Town of Shandaken to temporarily halt the issuance of new Short Term Rental Licenses for a period of six (6) months to enable the Town to adopt appropriate regulations regarding the issuance of Short-Term Rental Licenses in the Town of Shandaken.

Sec. 3 Authorization

This Local Law is adopted pursuant to Municipal Home Rule Law Sections 10(1)(i) and 10(1)(ii)(a)(14).

Sec. 4 Moratorium

During the effective period of this Local Law, no new Short-Term Rental Licenses shall be issued by the Town of Shandaken.

Sec. 5 Duration

The term of this moratorium shall be six (6) months from the date that the law is filed with the New York State Secretary of State.

Sec. 6 Hardship

Should any owner of real property believe that they have suffered an unnecessary and extreme hardship through the application of the terms of this Local Law, said owner may apply to the Town Board of the Town of Shandaken in writing for a waiver from strict compliance with this Local Law. Such owner must submit such proof as they deem appropriate to demonstrate an unnecessary and extreme hardship.

Upon submission of a written application to the Town Clerk by the property owner seeking a waiver of the local law, the Town Board shall within 30 days of receipt of said application schedule a public hearing at a future date, which date shall be no later than 60 days after receipt of the written application. Notice of said public hearing shall be made upon five days prior written notice in the official newspaper of the Town and notice of said public hearing shall be made by regular mail to all adjoining landowners of the application as such addresses are shown upon the tax rolls.

At said public hearing the property owner and any other party wishing to present evidence or testimony with regard to the application shall have an opportunity to be heard. Within 15 days of the close of said public hearing the Town Board shall render its decision either granting or denying the application for a variation of the strict compliance of this local law.

Sec. 7 Penalties for Offenses

Any person or entity that shall violate the terms of this local law shall be guilty of a violation and subjected to a fine of not less than \$250.00 per day and for imprisonment of 15 days. Each day that the violation continues shall be deemed a separate offense. In addition, the Town may enforce this local law by seeking an injunction or any other legal remedy it deems appropriate.

Sec. 8 Conflicts

All local laws of the Town of Shandaken that conflict with the provisions of this local law is hereby superseded by this local law during the three-month moratorium set forth above.

Sec. 9 Severability

In the event that a court of competent jurisdiction determines that any portion of this law is invalid in whole or in part, the effect of said decision shall be limited to the provisions which are expressed stated to be invalid and all other provisions of this law shall continue to be in full force and effect.

Sec. 10 Effective Date

This local law shall take effect upon its adoption and filing with the Secretary of State of the State of New York.

TOWN OF SHANDAKEN
Original LL#2 of 2022 UPDATED 3-24
Local Law #1&2 2024 SHORT-TERM RENTAL (STR)

BE IT ENACTED by the Town Board of the Town of Shandaken, County of Ulster, State of New York, as follows:

Section 1. The Code of the Town of Shandaken is amended by adopting a new Chapter, designated as Chapter 104 and titled “Short-Term Rentals,” to read as follows:

§1. Purpose and intent.

The Town Board finds that it is in the interest of public health, safety, and welfare to implement regulations, including a registration and license requirements, for the use of dwellings or dwelling units as short-term rentals within the Town of Shandaken.

The intent of Shandaken Short-Term Rental Law is to allow residents to augment their income while protecting neighborhood character and quality of life from encroaching commercial or business impacts, including but not limited to noise and traffic, and to encourage traditional long-term housing use. The regulations adopted herein are intended to ensure short-term rentals in the Town are registered and required to meet certain minimum standards, to ensure that the use of existing residential structures as short-term rentals accords with the Town’s plan for the future development of the community and protects residents of the Town.

To the extent an ambiguity of meaning arises in the implementation or enforcement of this local law, the purpose and intent described herein shall guide the decision making.

§2. Definitions.

Good Neighbor Flyer – An advisory document prepared by the Town Board for Short-term Rental owners and occupants to facilitate the success of the Short-Term Rental, other land uses, and the guests and neighbor experiences by sharing the general rules of community conduct, private property and neighbor considerations, and the safety of residents and guests.

Guest - A renter or other person who occupies a STR on an overnight basis for a period of fewer than thirty (30) days, or a guest of such renter or other person.

Owner – Individual(s) or entities who are in possession of and have an ownership interest in the STR proper.

Owner/Non-Resident- Owner whose primary residence is outside of the Town of Shandaken

Owner/Primary- Owner whose primary residence is on the STR property

Owner/Secondary- Owner whose primary residence is in the Town of Shandaken but not on the STR property.

Property Manager– A designated adult over the age of 21 years who is required and must respond to a complaint within 30 minutes by phone and/or one hour in person and is required and must be available and authorized to promptly deal with emergencies and other STR guest issues and compliance with STR operating requirements in the Owner’s absence. Such authorization must be designated on the registration form and on file with the Town and accessible by the appropriate emergency service providers.

Short-Term Rental (STR)– A dwelling or dwelling unit that is offered for rent or is rented, in whole or part, for overnight use and occupancy, for a period of fewer than thirty (30) consecutive nights.

§3. Short-Term Rental Regulations.

A. A short-term rental shall not:

(1) Operate without a license as required by § 4 – License Requirements. Any short-term rental in existence upon the effective date of this local law must comply fully with the requirements of this local law and must, within ninety (90) days after the effective date of this local law, apply for an STR license.

(2) Operate without providing notification to renters as required by Section 5 – Notification Requirements.

B. For a property purchased after the effective date of this local law, proof of a one-year ownership of a property is required for an STR. The Town Board establishes a cap of 150 on the number of Short-Term Rental licenses that may be issued to Non-Residents. There is no cap on the number of licenses that may be issued to Residents. The Town Board may review the caps and may exercise its discretion to adjust the caps by Town Board resolution from time to time if it is determined that such an adjustment is necessary to protect the public health, safety and welfare and promote the Town’s goals for the development of the community.

C. Owners will be issued an initial provisional license. Following review by the Town, to assure compliance with this local law, the Zoning Code and any other applicable laws and regulations, and a successful Building Inspection and having received no correspondence from notified abutters, a fully approved License will be issued.

D. The Short-Term Rental will allow a maximum capacity of two guests per bedroom. Children under the age of 16 years old are not to be counted as occupants for this purpose.

E. Renters must be provided a copy of the Good Neighbor Flyer prepared by the Town. The flyer will be added to the Town of Shandaken website and available for download by the STR Owner/Property Manager and provide a printed copy of the flyer to renters.

F. For STR whole home rentals, an emergency contact document bearing the name and contact information of the Owner/ Property Manager, as well as the 911 address of the STR, which shall be posted in a conspicuous location in the STR and at the entrance of the property and clearly identifiable from the street. When the Owner/ Property Manager or Owner/ Property Manager’s contact information changes, the owner/ property manager must within five (5) business days provide written notice to the Town and update posted renter notices accordingly. The Town will promptly update the

owner's STR Registration Form. The Owner/ Property Manager is responsible for responding to complaints from neighboring property owners.

G. Exterior advertising on a dwelling or dwelling unit identifying it as a STR is expressly prohibited.

H. Address numbers shall be prominently displayed at the entrance of the property.

I. Each Owner/ Property Manager shall provide to each Guest, or post in a conspicuous and readily accessible location within the STR, a property map that clearly depicts the STR's property boundaries for the purpose of preventing trespass on neighboring properties.

J. A gathering or party of more than 20 persons is expressly prohibited.

K. Owner/ Property Manager shall provide the ability for guests to make emergency telephone calls.

L. Campfires and fire pits must be kept less than 3 feet high and less than 4 feet wide, burn only local wood, and must be avoided on windy days and nights.

M. Notwithstanding that §116-23 of the Town Code states that the noise limits therein pertain to nonresidential or nonagricultural uses, for the purpose this local law, the noise limits set forth in §116-23(A) shall apply to STRs.

N. Each STR shall comply with the parking requirement set forth in 116-24 of the Town code.

O. All garbage and trash shall be kept in a wildlife resistant container or secured in a sturdy shed or garage at all times, except for roadside trash pickup on the designated day. Dumpsters must not be visible from the road or to neighbors.

§ 4. License requirements.

A. To obtain a license, the Owner of an existing or proposed Short Term Rental must submit a registration application on a form provided for that purpose by the Town. Only one (1) STR license shall be issued per property. The application must include the following:

(1) A one-time application fee and an annual license fee, which will be established and may be amended from time to time by separate resolution of the Town Board.

(2) The Owner name, telephone number, mailing address, and email address. If the Owner is an entity, the application must include such information for every person that possesses an ownership interest in the entity. Any change in the name of person(s) holding an ownership interest in the entity shall be provided to the Town within ten (10) days of such change. All persons holding an ownership interest in an entity shall be responsible to comply with the provisions of this local law and the Good Neighbor Flyer and each shall be liable for any violation thereof.

(3) The STR's full address.

(4) If applicable, the Property Manager name, telephone number, local address, and email address.

- (5) Proof of property and short-term rental landlord insurance.
- (6) A floor plan drawn to scale identifying rooms with dimensions.
- (7) A statement by the Owner that the STR is safe and habitable and, to the Owners knowledge, complies with the Fire Prevention and Building Safety Code. This statement does not supersede the Town's authority to inspect STRs and enforce applicable laws, rules and regulations.
- (8) Ulster County registration. All STRs in the Town of Shandaken must be registered with Ulster County.
- (9) Any other information reasonably requested.
- (10) The application must be signed by the Owner before a notary. The person signing the application shall certify under penalty of perjury that the information provided on the application form is true to the best of their knowledge and belief. False statements made on the application form are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

B. The Town shall issue a license if:

- (1) The application includes all information required under this section.
- (2) The residence does not pose a hazard to life, health or public safety and is in compliance with the Fire Prevention and Building Safety Code, which compliance may be initially certified by the Owner. However, as required by this local law, compliance with the Fire Prevention and Building Safety Code must be later determined by either the Town or a Code-certified professional retained by the property owner.

C. Licenses will be issued on "first come, first serve basis" based upon the date a complete application is submitted to the Town.

D. A license:

- (1) Is valid for 12 months from issuance of the license.
- (2) Fee shall be paid by STR registrant for 12 months of licensing and shall not be pro-rated or refunded for any reason.
- (3) May not be transferred or assigned by the Owner(s) listed on the application form and may not be transferred or assigned upon the lease, sale or conveyance of the real property except in the event that the individuals who secured the STR license, lease, sell or convey title to said real property to a Limited Liability Company, Corporation, Trust or a business entity which is wholly and exclusively owned by the individuals to whom the license was granted;
- (4) Shall terminate notwithstanding there being no conveyance of title to the real property, when the STR license holder is a Limited Liability Company, Corporation, Trust or a business entity and it transfers, sells

or assigns fifty percent or more interest in said Limited Liability Company, Corporation, Trust or a business entity to other persons, or to a Limited Liability Company, Corporation, Trust or a business entity.

E. If an STR licensee seeks to renew the license for a subsequent 12-month period, a renewal application must be submitted at least thirty (30) days prior to the expiration of the existing STR license, which renewal is subject to the following requirements:

- (1) The Owner pays a renewal license fee;
- (2) The Owner provides updates of any changes to the information required; and
- (3) The Town or Code-certified professional retained by the owner has conducted an on-site inspection to confirm the structure is in compliance with the Fire Prevention and Building Safety Code prior to the initial license issuance and a fire inspection every third year thereafter.

§5. Notification Requirements.

A. The Town shall provide a packet of information with each license summarizing the restrictions applicable to the short-term rental use, including, but not necessarily limited to:

- (1) The name and contact information of the local responsible contact designated in the application.
- (2) Applicable Occupancy limits.
- (3) Information on relevant burn bans.
- (4) A copy of the Good Neighbor Flyer.
- (4) Other guidelines and requirements applicable to a short-term rental use.

B. The Owner/ Property Manager of a short-term rental use must:

- (1) Provide renters a copy of the information packet.
- (2) Provide renters a copy of the Good Neighbor Flyer (at the Owner's expense).
- (3) Post the packet conspicuously in the common area of the licensed rental unit.
- (4) Post the License number conspicuously within residence.
- (5) Attach License number to each platform and advertisement.

C. The Town shall mail notice of the contact information for the Owner/ Property Manager to the owner(s) of all properties abutting the short-term rental property at the Owner's expense.

§6. Inspections.

If the Town Building/ Zoning Department reasonably believes that there is a violation of this Chapter of the Fire Prevention and Building Safety Code, the Town may make inspections to ensure compliance with this Chapter. For the purpose of performing inspections, the Town or a representative may enter, examine and survey, at all times, the entirety of the STR premises on presentation of the proper credentials. The Owner/Property Manager of an establishment, or the person in charge, shall give the Town free access to the building. The Town will schedule such inspections in advance, unless in the case of imminent danger, in which case the Town may request access without an advance appointment.

To be in compliance, the following minimum requirements shall be met:

A) Be compliant with Fire Prevention and Building Safety Code including but not limited to;

(1) There shall be one functioning smoke detector in each bedroom and at least one functioning smoke detector in at least one other room, one functioning fire extinguisher in the kitchen and at each primary exit, and at least one carbon monoxide detector.

(2) Exterior doors shall be operational, and all passageways to exterior doors shall be clear and unobstructed.

(3) Electrical systems shall be serviceable with no visual defects or unsafe conditions.

(4) All fireplaces, fireplace inserts or other fuel-burning heaters and furnaces shall be vented and properly installed.

(5) Each bedroom shall have an exterior exit that opens directly to the outside, or an emergency escape or egress type window.

§7. Licenses required.

Except as provided for in Section 3(A)(1) above, no person may operate a short-term rental unless a license for the operation in the name, of the Owner and for the specific property has been issued by the Town Clerks Office and is currently valid and in good standing.

§8. Enforcement and penalties for violations.

A. This Chapter may be enforced by the Building Inspector, Code Enforcement Officer or any other officer, Town of Shandaken employee or agent appointed by resolution of the Town Board. For purposes of this Chapter, all such persons are considered a “Code Enforcement Officer” or “CEO” All such Code Enforcement Officers are authorized to issue violation notices and appearance tickets.

B. Whenever the Town determines that there is a violation of any provision of this Chapter, any rule or regulation adopted pursuant to this Chapter or the Fire Prevention and Building Safety Code or determines that there has been a failure to comply with any provision, or requirement related to the registration, reporting, collection, accounting, the Town shall serve upon the Owner an order, in writing, directing the Owner to remedy and correct the violation within the time specified in the order.

C. If, after the expiration of 14 business days, the violation has not been remedied and corrected, the Code Enforcement Officer may serve an appearance ticket upon the Owner requiring the Owner to appear before the Town Justice of the Town of Shandaken at a time to be specified in such notice.

D. Whenever the Town finds that an emergency condition exists, which condition requires immediate attention in order to protect the health or safety of the public or of any owner or occupant, the Town may issue an order by service of notice in a manner set forth above and reciting the existence of such emergency condition requiring that remedial action be taken immediately. Any person to whom such an order is directed shall comply therewith.

E. Failure to comply with an order when notice has been provided in accordance with this Chapter shall constitute a separate and distinct violation of this Chapter.

F. Each calendar day a violation occurs or continues shall constitute and be deemed a separate and distinct violation.

G. In addition to and not in lieu of any other remedies, any person who violates any provision of this Chapter, any rule or regulation adopted pursuant to this Chapter or the Fire Prevention and Building Safety Code or who violates or fails to comply with any lawful order promulgated hereunder shall be guilty of a violation and, for a first conviction thereof, shall be subject to a fine in an amount not less than \$100 nor more than \$150, for conviction of a second violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$250 and not more than \$500; for conviction of a third violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$750 and not more than \$1,250; for conviction of a fourth violation and for each subsequent violation committed within twelve (12) months of any prior violation, such person shall be subject to a fine in an amount not less than \$2,000 and not more than \$3,000 or a maximum of fifteen (15) days imprisonment or both.

H. Upon a third conviction within a 12-month period, the Owner's license to operate the STR shall be deemed suspended for a period of six (6) months. Upon the suspension of such license, the premises shall cease to be used as a short-term rental until such time as the license is reinstated. Use of the premises as a short-term rental during the license suspension period shall constitute a violation of this Chapter.

I. A renewal license shall not be issued and no license shall be issued to any other person for the subject premises until all violations for which the Owner has been convicted are remedied and corrected.

J. Civil penalties and injunction. In addition to and not in lieu of any other remedies, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to obtain civil monetary penalties and compel compliance with or to restrain, by injunction, the violation of this chapter or any order promulgated hereunder. The civil monetary penalties shall be in accordance with and not exceed the monetary penalties set forth in subsection G above.

K. Service of Notice of Violation/ An Order to Remedy or an Appearance Ticket may be served personally on the Owner or it may be sent by regular mail and by certified mail return receipt requested to the Owner's tax bill address for the subject property. Service shall be deemed complete upon personal delivery to the Owner or if sent by mail, 14 business days after the Order to Remedy or Appearance Ticket is mailed to the Owner.

Section 2. Pursuant to the state Municipal Home Rule Law, this local law is intended to supersede any inconsistent provisions of the state Town Law and any other special law.

Section 3. Severability.

If a court of competent jurisdiction adjudges that any word, section, clause, paragraph, sentence, part or provision of this local law is invalid, such order or judgment shall not affect the validity of any other part of this law which can be given effect without such invalid part or parts.

Section 4. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with the Municipal Home Rule Law of the State of New York.